

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
LOCAL ASSISTANCE AND PLANNING COMMITTEE

IN THE MATTER OF THE:

REGULAR MONTHLY BUSINESS)
MEETING)
_____)

DATE AND TIME: WEDNESDAY, JULY 29, 1998
9:30 O'CLOCK A.M.

PLACE: BOARD HEARING ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA 95826

REPORTER: CYNTHIA L. HALL
CERTIFICATE NO. 10064

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52 LONGWOOD DRIVE, SAN RAFAEL, CA 94901

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A P P E A R A N C E S

Mr. Daniel G. Pennington, Chairman
Mr. Robert C. Frazee, Vice Chairman
Mr. Dan Eaton, Member
Mr. Steven R. Jones, Member

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1 SACRAMENTO, CALIFORNIA:
2 WEDNESDAY, JULY 29, 1998, 9:30 O'CLOCK A.M.

3 ---oOo---

4 CALL TO ORDER

5 CHAIRMAN PENNINGTON: GOOD MORNING, AND
6 WELCOME TO THE JULY MEETING OF THE CALIFORNIA
7 INTEGRATED WASTE MANAGEMENT BOARD.

8 WILL THE SECRETARY CALL THE ROLL,
9 PLEASE?

10 THE SECRETARY: BOARD MEMBER EATON?

11 MEMBER EATON: HERE.

12 THE SECRETARY: FRAZEE?

13 MEMBER FRAZEE: HERE.

14 THE SECRETARY: JONES?

15 MEMBER JONES: HERE.

16 THE SECRETARY: CHAIRMAN PENNINGTON?

17 CHAIRMAN PENNINGTON: HERE. WE HAVE A
18 QUORUM. BARELY, BUT WE HAVE ONE. AS THE PUBLIC WILL
19 NOTE, MR. CHESBRO IS NOT HERE. MR. CHESBRO IS ON A
20 LEAVE OF ABSENCE AND, THEREFORE, WILL NOT BE PART OF
21 ANY OF THE ROLL CALLS BECAUSE HE'S NOT ACTUALLY PART
22 OF US AT THE MOMENT. AND WE KNOW HE'S OUT BEATING THE

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1 BUSHES FOR VOTES.

2 EX PARTE COMMUNICATIONS

3 CHAIRMAN PENNINGTON: DO ANY OF THE BOARD
4 MEMBERS HAVE ANY *EX PARTES*? I'LL START WITH MEMBER
5 EATON.

6 MEMBER EATON: I HAVE THREE, ORAL. ONE FROM
7 MR. MARC APREA ON MONDAY, JANUARY 27TH, REGARDING
8 SENATE BILL 1340 BY SENATOR POLANCO, DEALING WITH THE
9 LIABILITY ISSUES BETWEEN LOCAL GOVERNMENTS AND
10 OPERATORS. IN ADDITION, YESTERDAY I HAD TWO SEPARATE
11 ORAL CONVERSATIONS, ONE WITH KEN STODDARD OF WASTE
12 MANAGEMENT, INC., AND CHUCK WHITE, OF WASTE
13 MANAGEMENT, INC., REGARDING ITEM 11 ON TODAY'S AGENDA.

14 CHAIRMAN PENNINGTON: VERY GOOD. MEMBER
15 JONES?

16 MEMBER JONES: THANKS, MR. CHAIRMAN. JUST
17 TWO QUICK ONES TODAY, VERBAL. LARRY SWEETCHER AND
18 DENISE DELMATIER ON SOME AB 939 ISSUES. AND STEVE
19 MAQUIN AND AL MARINO ON THE 21ST CENTURY. EVERYTHING
20 ELSE IS UP TO DATE.

21 CHAIRMAN PENNINGTON: OKAY. VERY GOOD. MR.
22 FRAZEE?

23 MEMBER FRAZEE: MINE ARE ALL RECORDED IN THE

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1 RECORD.

2 CHAIRMAN PENNINGTON: VERY GOOD. THANK YOU.

3 I HAVE THE SAME LETTER THAT MEMBER EATON
4 REFERRED TO, I BELIEVE, FROM BROWNING- FERRIS, OR MARK
5 LEARY, I BELIEVE IT WAS. AND I HAVE ONE FROM SENATOR
6 PEACE AND ONE FROM CHUCK WHITE AT WASTE MANAGEMENT. I
7 HAVE A BRIEF DISCUSSION THIS MORNING WITH BOB HOUSTON
8 RELATED TO SOME TIRE DISPOSAL SITUATIONS IN SAN
9 BERNARDINO COUNTY. AND I THINK THAT'S ALL THAT I
10 HAVE. I THINK EVERYTHING ELSE IS IN THE RECORD THERE.

11 PROCEDURES AND ANNOUNCEMENTS

12 CHAIRMAN PENNINGTON: OH, THERE ARE SPEAKER
13 SLIPS AT THE BACK OF THE ROOM. IF ANYBODY WISHES TO
14 ADDRESS THE BOARD ON ANY PARTICULAR ITEM, WOULD YOU
15 PLEASE FILL OUT A SPEAKER SLIP, GET IT TO MS. KELLY
16 HERE WHO WILL MAKE SURE THAT WE GET YOU HEARD ON
17 WHATEVER ITEM IT IS THAT YOU'RE INTERESTED IN.

18 ANNOUNCEMENTS. ITEMS 8-C, 15, AND 25
19 HAVE BEEN PULLED FROM TODAY'S AGENDA.

20 I BELIEVE MEMBER JONES HAS SOME COMMENTS
21 ON ITEM 25. WOULD YOU LIKE TO....

22 MEMBER JONES: THANK YOU, MR. CHAIRMAN.

23 NUMBER 25 IS THE CONSIDERATION OF TO CHANGE THE BASE-

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1 YEAR FOR 1997 FOR TULARE COUNTY. AND THE PROPONENT OF
2 THAT -- OR, THE COUNTY PULLED THAT ITEM.

3 I JUST WANT TO SAY I HAD SOME QUESTIONS
4 ON THE ITEM THAT KIND OF STRUCK ME UNUSUAL, THAT
5 DISPOSAL WENT UP EIGHT PERCENT, GENERATION WENT UP 40,
6 AND RECYCLING WENT UP 1200. SO I ASKED FOR SOME MORE
7 INFORMATION AND THEY OBVIOUSLY DIDN'T HAVE ENOUGH TIME
8 TO GET IT TOGETHER. BUT I WOULD LIKE TO MAKE SURE
9 THAT WE, AS AN ORGANIZATION, GO OVER THESE THINGS AS
10 WE ALWAYS DO, WITH A FINE-TOOTH COMB, BECAUSE IT DOES
11 TEND TO RAISE MY AWARENESS OF SOME OF THESE ISSUES AND
12 THE INVESTMENT THAT'S BEEN MADE WHEN THESE KIND OF
13 THINGS COME UP. BUT, THEY HAVE THE RIGHT TO PULL IT,
14 SO THAT'S OKAY WITH ME.

15 CHAIRMAN PENNINGTON: OKAY. THANK YOU,
16 MEMBER JONES.

17 ITEM 26 IS ALSO PULLED FROM THE CONSENT
18 CALENDAR FOR A BRIEF PRESENTATION BY STAFF TO
19 ACKNOWLEDGE SOME EXCEPTIONAL WORK BY OUR LOCAL
20 GOVERNMENT PARTIES ON THE DIVERSION GOALS.

21 ITEM 5, 6, AND 10 WILL BE HEARD
22 FOLLOWING ITEM 26 IN THE FOLLOWING ORDER: ITEM 5,
23 ITEM 10, AND THEN ITEM 6.

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1 MEMBER JONES: AFTER 26?

2 CHAIRMAN PENNINGTON: AFTER 26, CORRECT.

3 AGENDA ITEM NO. 1: REPORTS OF BOARD'S COMMITTEES

4 CHAIRMAN PENNINGTON: NOW WE'LL HAVE REPORTS OF THE
5 BOARD COMMITTEES, LOCAL ASSISTANCE AND PLANNING. MR.
6 CHESBRO IS THE CHAIR, THAT WAS CANCELED AS DIRECTED BY
7 THE BOARD.

8 LEGISLATION AND PUBLIC EDUCATION
9 COMMITTEE CHAIRED BY MEMBER EATON. MEMBER EATON?

10 MEMBER EATON: YES, THANK YOU, MR. CHAIR.
11 THE LEGISLATION AND PUBLIC EDUCATION COMMITTEE MET ON
12 JULY 14TH TO CONSIDER THREE MEASURES NOW PENDING
13 BEFORE THE LEGISLATURE.

14 OF THESE MEASURES AB 2237 BY
15 ASSEMBLYWOMAN MARTHA ESCUTIA WAS HELD IN COMMITTEE
16 PENDING FURTHER AMENDMENTS BY THE AUTHOR, AS WELL AS
17 SOME CONCERNS RAISED BY THE COMMITTEE WHICH THAT BILL
18 IS BEFORE IT. SO, THEREFORE, WE DID NOT TAKE IT UP
19 FOR ANY KIND OF VOTE. WE HEARD TESTIMONY AND SOME OF
20 THE PROPOSED AMENDMENTS, BUT WE FELT THAT IT WAS NOT
21 IN A FORM OR SHAPE IN WHICH TO BRING IT BEFORE THIS
22 BODY.

23 AB 2181, BY MR. FIRESTONE, WAS

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1 SUBSTANTIALLY AMENDED SEVERAL TIMES SINCE WE FIRST
2 HEARD THIS MEASURE. IT CAME BACK BEFORE THE COMMITTEE
3 AND NOW IS A SCALED-DOWN VERSION OF THE ORIGINAL BILL,
4 AND IS ON TODAY'S CONSENT CALENDAR DUE TO THE LIMITED
5 NATURE THAT THE BILL NOW ENCOMPASSES. THE COMMITTEE
6 ALSO VOTED TO SUPPORT THAT MEASURE IF AMENDED.

7 THE FINAL BILL THAT WAS HEARD THAT DAY
8 WAS ASSEMBLY BILL 2521. THAT BILL ALSO DEALS WITH THE
9 AB 59 APPEALS PROCESS. AND, GIVEN THE FACT THAT THIS
10 BOARD HAD A VERY, I THINK, SUCCESSFUL AND PRODUCTIVE
11 WORKSHOP IN THAT REGARD DOWN IN ORANGE COUNTY A SHORT
12 WHILE BACK, THE COMMITTEE FELT THAT WHILE WE SUPPORT
13 THIS BILL IF IT'S AMENDED, THAT IT SHOULD BE BROUGHT
14 BEFORE THE FULL BOARD IN CASE THERE NEEDS TO BE ANY
15 ADDITIONAL COMMENTS OR REVIEW OF THAT MATTER. AND,
16 THEREFORE, WE WOULD ASK THAT IT BE SUPPORTED IF THAT
17 BILL WERE AMENDED.

18 FINALLY, WE HEARD A SHORT UPDATE, AND A
19 BRIEF UPDATE FROM OUR PUBLIC AFFAIRS DIVISION.

20 AND, THAT CONCLUDES MY REPORT FOR THIS
21 DAY.

22 CHAIRMAN PENNINGTON: THANK YOU, MEMBER
23 EATON.

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1 PLANNING AND ENFORCEMENT COMMITTEE
2 CHAIRED BY MR. FRAZEE.

3 MEMBER FRAZEE: YES, MR. CHAIRMAN. THE
4 PERMITTING AND ENFORCEMENT COMMITTEE MET ON JULY 16TH.
5 HEARD EIGHT TIMES, FOUR OF THOSE ARE RECOMMENDED FOR
6 TODAY'S CONSENT CALENDAR.

7 THE FIRST OF WHICH IS A SOLID WASTE
8 FACILITY PERMIT FOR THE VICTORVILLE SANITARY LANDFILL
9 IN SAN BERNARDINO COUNTY.

10 NUMBER TWO, THE ADOPTION OF FINANCIAL
11 ASSURANCE REGULATIONS FOR SOLID WASTE LANDFILLS.

12 NUMBER THREE, THE ALLOCATION OF FISCAL
13 YEAR '98-99 FUNDS FOR THE SOLID WASTE DISPOSAL AND CO-
14 DISPOSAL SITE CLEANUP PROGRAM. AND A RECOMMENDATION
15 WAS MADE TO LOOK INTO UTILIZING THE AB 2136 FUNDS FOR
16 TIRE CLEANUP PROJECTS IF THE TIRE FEE EXPIRES.

17 AND THEN, FINALLY, THE LEGAL AUTHORITY
18 ISSUES AND OPTIONS RELATING TO BIOSOLIDS REGULATION.
19 IN THAT MATTER THE COMMITTEE DECIDED TO NOT ENTER INTO
20 BIOSOLID REGULATIONS AT THIS TIME BECAUSE OF THE FACT
21 THAT THE FIELD IS PRETTY WELL COVERED AND PREEMPTED BY
22 OTHER AGENCIES.

23 THE NONCONSENT ITEMS, THOSE ON THE BOARD

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1 AGENDA TODAY. FIRST, WHICH IS THE OPTIONS RELATING TO
2 THE IMPLEMENTATION OF THE PERMIT CONSOLIDATION ZONE
3 PILOT PROGRAM, OTHERWISE KNOWN AS SB 1299. AND THIS
4 ITEM WAS FORWARDED TO THE BOARD AND NO VOTE WAS TAKEN.

5 IN THE MATTER OF WASTE MANAGEMENT
6 ALLOWANCE TO CONTINUE USING NGIC INSURANCE TO
7 DEMONSTRATE FINANCIAL ASSURANCES FOR CLOSURE AND POST-
8 CLOSURE MAINTENANCE. A TWO-OH VOTE GRANTED A SIX-
9 MONTH EXTENSION WITH CONDITIONS THAT ANY NEW PERMIT
10 APPLICATION WOULD INCLUDE AN ALTERNATIVE FINANCIAL
11 MECHANISM OTHER THAN NGIC. A STATUS REPORT WILL BE
12 PROVIDED TO THE BOARD EVERY TWO MONTHS. AND THE STAFF
13 WILL BE REVISITING REGULATIONS FROM THE EARLY '90S
14 WHICH DEALT WITH CAPTIVE INSURERS. SO, THAT MATTER
15 WILL BE BEFORE US TODAY.

16 AND THEN A PRESENTATION REGARDING
17 VERTICAL EXPANSIONS OF SOLID WASTE LANDFILLS. THAT
18 ITEM WAS PUT OVER TO A SUBSEQUENT MEETING.

19 FINALLY, THE COMMITTEE ACTION ITEM
20 INVOLVED THE APPROVAL TO FORMALLY NOTICE PROPOSED
21 REGULATION PACKAGE FOR THE WITHDRAWAL OF LOCAL
22 ENFORCEMENT AGENCY DESIGNATIONS. AND THE COMMITTEE
23 DIRECTED STAFF TO MOVE FORWARD WITH THE 45-DAY COMMENT

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1 PERIOD.

2 THAT CONCLUDES MY REPORT.

3 CHAIRMAN PENNINGTON: THANK YOU, MR. FRAZEE.

4 POLICY, RESEARCH, AND TECHNICAL
5 ASSISTANCE COMMITTEE, CHAIRED BY MEMBER JONES.

6 MEMBER JONES: THANK YOU, MR. CHAIRMAN. THE
7 POLICY COMMITTEE MET ON JULY 7TH TO HEAR ONE ITEM,
8 CONSIDERATION OF THE APPROVAL OF BOARD PROTOCOL FOR
9 EXTERNAL SCIENTIFIC PEER REVIEW.

10 AFTER THE ITEM WAS HEARD, THERE WERE
11 QUESTIONS THAT BOARD MEMBERS BROUGHT UP, AS WELL AS
12 THE EXECUTIVE DIRECTOR, ON -- AND WHAT WE ASKED WAS
13 FOR STAFF TO DO A LITTLE BIT MORE WORK ON THIS. THERE
14 WAS A GOOD PRESENTATION, WE UNDERSTOOD WHAT THEY
15 WANTED, BUT WE WANTED THEM TO ADD TO IT.

16 THE THREE ITEMS THAT WE HAVE
17 SPECIFICALLY ASKED THEM TO INCORPORATE IN THE ITEM
18 WERE DEFINING THE DECISION-MAKING CRITERIA FOR
19 DETERMINING WHETHER OR NOT TO EVEN CONDUCT A
20 SCIENTIFIC PEER REVIEW; TO IDENTIFY THOSE BOARD WORK
21 PRODUCTS THAT WOULD BE EXCLUDED FROM SCIENTIFIC PEER
22 REVIEW, AND AN EXAMPLE OF THAT WOULD BE THE RPPC
23 RATES, RECYCLING RATES; THE THIRD ITEM WAS TO CREATE A

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1 PROCESS THAT FORWARDS ANY APPEAL OF AN EXECUTIVE
2 OFFICER DECISION NOT TO BE PEER REVIEW A WORK PRODUCT
3 TO THE BOARD, SO THAT WE HAVE A MECHANISM IN PLACE
4 THAT THAT CAN COME TO THE BOARD FOR FINAL DECISION.

5 WE ALSO ASKED STAFF TO PREPARE A LAUNDRY
6 LIST OF THE AMOUNT OF THE BOARD ITEMS -- BOARD
7 PRODUCTS AND REGULATIONS THAT ARE LIKELY CANDIDATES
8 FOR PEER REVIEW IN '98-99 AND TO LET US KNOW WHAT
9 THOSE ARE.

10 CHAIRMAN PENNINGTON: VERY GOOD.

11 MEMBER JONES: MR. CHAIRMAN?

12 CHAIRMAN PENNINGTON: YES.

13 MEMBER JONES: I DON'T KNOW IF I CAN TAKE A
14 LIBERTY? I WANT TO -- THIS MAY NOT BE THE RIGHT TIME,
15 AND YOU CAN TELL ME WHEN IT WOULD BE.

16 I NEED TO GET A DEFINITION ON AB 939.
17 THERE IS AN ADVERTISEMENT IN THE BUSINESS JOURNAL,
18 "SACRAMENTO BUSINESS JOURNAL," THAT SAYS: "CALIFORNIA
19 ASSEMBLY BILL 939 MANDATES 50 PERCENT REDUCTION ON
20 WASTE GOING ON LANDFILLS BY 2000. START BY USING A
21 COMPACTOR."

22 NOW, IF IN FACT THAT IS WHAT AB 939 IS
23 ABOUT, THEN I THINK WHAT WE HAVE TO DO IS REVERT BACK

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1 TO WHEN WE HAD OPEN GARBAGE TRUCKS, BECAUSE THAT
2 WEIGHED 217 POUNDS. NOW WE CAN CONSOLIDATED AND OUR
3 LOADS ARE ABOUT 650 POUNDS PER YARD. AND THERE MUST
4 BE SOME KIND OF DIVERSION CREDIT THAT COULD GO FORWARD
5 JUST BY THE SIMPLE FACT THAT WE USE COMPACTION TRUCKS
6 INSTEAD OF OPEN GARBAGE TRUCKS.

7 I THINK THAT THIS IS SOMETHING --
8 SERIOUSLY, I THINK THIS IS SOMETHING WE NEED TO TALK
9 ABOUT AS A BOARD ITEM, BECAUSE I DON'T THINK IT'S FAIR
10 TO THE BUSINESS COMMUNITY THAT THEY'RE TOLD AT NO COST
11 TO YOU, YOU CAN MEET AB 939 BY BUYING A COMPACTOR. I
12 DON'T THINK THAT THAT IS GOOD. I DON'T THINK IT'S
13 GOOD THAT WE NOT DISCUSS IT, AND AT LEAST RUN AN AD
14 THAT SAYS YOU MAY WANT TO DO A LITTLE RECYCLING, A
15 LITTLE SOURCE REDUCTION TO MEET 50 PERCENT, AS OPPOSED
16 TO JUST BUYING A COMPACTOR.

17 SO, I THOUGHT I WOULD BRING THAT TO THE
18 BOARD'S ATTENTION, BECAUSE IT DEFINITELY GOT MY
19 ATTENTION.

20 CHAIRMAN PENNINGTON: THANK YOU, MEMBER
21 JONES, WELL --

22 MEMBER EATON: PERHAPS A RAP AWARD IS IN
23 ORDER.

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1 CHAIRMAN PENNINGTON: WE'LL ASK THE EXECUTIVE
2 DIRECTOR TO LOOK INTO THIS AND SEE IF WE CAN GET THE
3 AGENDA AS AN ITEM.

4 THE NEXT COMMITTEE WAS THE MARKET
5 DEVELOPMENT COMMITTEE, WHICH I'M THE INTERIM CHAIR OF.
6 AND, THEREFORE, WE HELD NO MEETING IN JULY.

7 I ALSO CHAIR THE ADMINISTRATION
8 COMMITTEE, WHICH MET ON JULY 22ND, 1998, AND HEARD
9 THREE ITEMS.

10 THE DEPUTY DIRECTOR REPORTED THAT THE
11 ADMINISTRATION AND FINANCE DIVISION IS CONTINUING
12 THEIR WORK ON IMPROVING THE RFQ APPLICATION PROCESS,
13 AND THE FEDERAL GRANT APPROVAL PROCESS, AND WE'LL KEEP
14 THE COMMITTEE APPRISED OF THEIR PROGRESS.

15 KARIN FISH REPORTED THAT SHE IS WAITING
16 FOR APPROVAL FROM CAL EPA ON THE BOARD'S CONCEPTS FOR
17 BUDGET CHANGE PROPOSALS AND WILL INFORM BOARD MEMBERS
18 OF THE DECISION AS SOON AS SHE HEARD FROM THE AGENCY,
19 WHICH I THINK SHE HAS.

20 THE COMMITTEE ALSO HEARD THE
21 CONSIDERATION OF FISCAL YEAR 1998-99 CONTRACT
22 CONCEPTS, AND APPROVED THE EXECUTIVE STAFF
23 RECOMMENDATIONS ON THE CONCEPTS UNDER THE USED OIL

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1 FUND. THE COMMITTEE DIRECTED STAFF TO DO SOME FURTHER
2 WORK ON THE REST OF THE CONCEPTS AND BRING IT BACK TO
3 COMMITTEE AND BOARD IN EARLY AUGUST OR SEPTEMBER.

4 THE LAST ITEM THE COMMITTEE DISCUSSED
5 AND RECOMMENDED WAS THE ADOPTION OF A MODIFICATION TO
6 THE BOARD'S WORKING STRUCTURE. THIS ITEM WILL BE
7 HEARD BY THE FULL BOARD TODAY.

8 NOW WE'LL HEAR FROM THE EXECUTIVE
9 DIRECTOR, MR. CHANDLER.

10 AGENDA ITEM NO. 2: REPORT FROM THE
11 EXECUTIVE DIRECTOR

12 MR. CHANDLER: GOOD MORNING, MEMBERS. MR.
13 CHAIRMAN, I'D LIKE TO START OFF MY REPORT TODAY WITH
14 FOUR ITEMS THAT I'M GOING TO COVER.

15 AND THE FIRST ONE IS A PARTNERSHIP THAT
16 WE HAVE RECENTLY JUST COMPLETED SUCCESSFULLY WITH THE
17 DEPARTMENT OF FISH AND GAME. AS YOU MAY BE AWARE,
18 LAST MONTH THE WASTE BOARD PARTNERED WITH THE
19 DEPARTMENT ON THE DEPARTMENT'S FIRST 1998 FISHING DAY,
20 AN OPPORTUNITY THAT PROMOTED THE FUN AND MERITS OF
21 SPORTS FISHING AND ALLOWED US TO PITCH THE ADDED
22 ENVIRONMENTAL BENEFITS OF REDUCING AND RECYCLING WASTE
23 AS WELL.

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1 THE PARTNERSHIP CONSISTED OF THE BOARD
2 FUNDING THE DEVELOPMENT AND INSTALLATION OF FISHING
3 INFORMATION STATION PANELS ON ENVIRONMENTAL PROTECTION
4 ISSUES. THE FIRST SET OF THESE PANELS WAS DEDICATED
5 LAST MONTH IN THE FULTON EL CAMINO RECREATION AND PARK
6 DISTRICT.

7 IN SACRAMENTO THE FREE FISHING DAY EVENT
8 WAS ATTENDED BY HUNDREDS OF CHILDREN AND THEIR
9 PARENTS. WASTE BOARD STAFF, WORKING ALONGSIDE WITH
10 FISH AND GAME AND CITY STAFF, HANDED OUT HUNDREDS OF
11 PREMIUMS AND EDUCATIONAL MATERIALS, AND THE EVENT WAS
12 COVERED BY OUR LOCAL TV STATIONS.

13 AT THIS TIME I'D LIKE TO INTRODUCE FISH
14 AND GAME DEPARTMENT'S NICK VILLA, A SENIOR FISHERIES
15 BIOLOGIST, AND JOE FERRERA, A FISH AND WILDLIFE
16 INTERPRETER, WHO HAVE A FEW COMMENTS TO SAY REGARDING
17 THIS SUCCESSFUL MUTUAL AGENCY OUTREACH EFFORT.

18 RONI, YOU WANT TO INTRODUCE OR ARE YOU
19 JUST THERE FOR THE PICTURES?

20 MR. JAVA: THANK YOU VERY MUCH, RALPH. AND
21 THANK YOU, MR. PENNINGTON. ON BEHALF OF MY DIRECTOR,
22 JACKIE SCHAFER, FOR THE CALIFORNIA DEPARTMENT OF FISH
23 AND GAME, I'M PLEASED TO HAVE THIS OPPORTUNITY TO MAKE

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1 THIS PRESENTATION AGAIN.

2 AGAIN, TO RESTATE WHAT RALPH HAD SAID,
3 WE ARE HERE TO REAFFIRM THE DEPARTMENT'S APPRECIATION
4 FOR THE BOARD'S INVOLVEMENT AND COOPERATION UNDER THIS
5 JOINT VENTURE.

6 AGAIN, ON JUNE 6TH, WE WERE PARTICIPANTS
7 WITH THE BOARD, AS WITH THE LOCAL PARK DISTRICT, TO
8 KICK OFF OUR FREE FISHING DAY, AS WELL AS OUR URBAN
9 FISHING PROGRAM, AS WELL AS YOUR AGENCY'S EFFORTS IN
10 PROMOTING THE GOALS UNDER AB 939. IT WAS OUR PLEASURE
11 TO BE A PART OF THIS PROGRAM AND TO BE ABLE TO
12 COMMINGLE BOTH RESOURCES AND MONEY TO EFFECTIVELY AND
13 EFFICIENTLY USE PUBLIC DOLLARS TO PROMOTE THE GOALS OF
14 THE VARIOUS AGENCIES AND LOCAL PARK DISTRICTS.

15 SPECIFICALLY, WE WANT TO RECOGNIZE PHIL
16 MORALES, TRISH BRODDRICK, AND BECKY WILLIAMS OF THE
17 PUBLIC EDUCATION AND ASSISTANCE PROGRAM, AS WELL AS
18 RONI JAVA, WHO HAS BEEN VERY INSTRUMENTAL IN A LOT OF
19 ACTIVITIES FOR YOUR AGENCY. OUR PEOPLE WERE MORE THAN
20 HAPPY TO WORK WITH YOUR PEOPLE AND WORK COOPERATIVELY
21 AND TO PROMOTE THE GOALS, AGAIN, OF BOTH AGENCIES --
22 ACTUALLY, ALL THREE AGENCIES.

23 THESE SIGNS ARE INSTRUMENTAL TO

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1 PROMOTING THE GOALS AND EFFORTS OF THE DEPARTMENTS AND
2 THE AGENCIES INVOLVED. THEY'RE BEAUTIFUL SIGNS.
3 THEY'RE VERY WELCOMED BY THE COMMUNITY. AS YOU CAN
4 SEE IN THE MONITORS, THEY'RE BEAUTIFUL. THE COLOR'S
5 NOT COMING OUT VERY WELL, BUT THEY'RE ABSOLUTELY
6 GORGEOUS, AND WE'RE VERY, VERY PLEASED WITH THE
7 OUTCOME OF THE PRODUCT.

8 AS SUCH, VARIOUS AWARDS WERE GIVEN THAT
9 DAY. THERE IS SOME LEGISLATIVE RECOGNITION -- JOE,
10 MAYBE YOU CAN HOLD THAT UP -- AS WELL AS OUR REGIONAL
11 MANAGER'S AWARDS, AS WELL AS A RESOLUTION FROM THE
12 LOCAL PARK AND RECREATION DISTRICT.

13 AND, TODAY WE'D LIKE TO FINISH THE
14 AWARDS WITH A DIRECTOR'S ACHIEVEMENT AWARD. AND,
15 UNFORTUNATELY, JACKIE WASN'T HERE PERSONALLY TO AWARD
16 THAT TO MR. PENNINGTON, BUT ON BEHALF OF THE DIRECTOR
17 I'M VERY, VERY, VERY PLEASED TO PRESENT THIS AWARD TO
18 THE INDIVIDUALS THAT PARTICIPATED FROM THE INTEGRATED
19 WASTE MANAGEMENT BOARD, AS WELL AS TO THE ENTIRE BOARD
20 ITSELF. AND, TO THAT, WE THANK YOU VERY, VERY MUCH.

21 CHARIMAN PENNINGTON: THANK YOU. (APPLAUSE.)
22 THANK YOU. WE CERTAINLY APPRECIATE THIS. AND, OF
23 COURSE, WE'RE ALWAYS PLEASED TO BE IN PARTNERSHIP WITH

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1 A FELLOW CALIFORNIA AGENCY. AND WE'RE ALWAYS LOOKING
2 FORWARD TO BEING INVOLVED WITH LOCAL GOVERNMENT, AS
3 WELL. SO WE APPRECIATE THIS VERY MUCH. AND WE'RE
4 SORRY THAT JACKIE COULDN'T BE HERE, SHE'S A LONG-TIME
5 FRIEND OF MINE AND, IN FACT, GOES ALL THE WAY BACK TO
6 MY YEARS AND HER YEARS IN WASHINGTON. SO, YOU EXTEND
7 OUR THANKS FOR THIS ACHIEVEMENT AWARD, AND I'M HAPPY
8 TO ACCEPT IT ON BEHALF OF ALL OF THE BOARD. THANK
9 YOU. (APPLAUSE.)

10 MR. CHANDLER: THANK YOU MR. CHAIRMAN. I
11 HAVE JUST A COUPLE MORE ITEMS IN MY REPORT THIS
12 MORNING, SO I'LL CONTINUE AND MOVE ON TO THE SECOND
13 ITEM.

14 IF YOU'VE BEEN WITH THE BOARD FOR ANY
15 LENGTH OF TIME, YOU KNOW WE HAVE SOME OF THE MOST
16 CAPABLE INFORMATION MANAGEMENT STAFF IN STATE
17 GOVERNMENT. AND NOW OTHERS KNOW. BECAUSE, FOR THEIR
18 OUTSTANDING ASSISTANCE IN HELPING THE CALIFORNIA
19 ENVIRONMENTAL PROTECTION AGENCY SET UP ITS INNOVATIVE
20 CAL GOLD SYSTEM, I WANT TO CONGRATULATE OUR
21 INFORMATION MANAGEMENT BRANCH STAFF FOR EFFORTS FAR
22 BEYOND THE CALL OF NORMAL OFFICE DUTIES. AND, TO
23 THEIR CREDIT, WHEN CAL EPA NEEDED EXPERTISE THEY

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1 TURNED TO OUR PROS.

2 CAL GOLD STANDS FOR CALIFORNIA
3 GOVERNMENT ON LINE TO DESK TOP, AND THIS INNOVATIVE
4 SYSTEM NOW PROVIDES COMPREHENSIVE PERMIT ASSISTANCE ON
5 THE INTERNET AT THE TOUCH OF A BUTTON TO BUSINESSES
6 AROUND THE STATE IN A COST-EFFECTIVE, CONSUMER-DRIVEN
7 MANNER. IT ENABLES THE STATE GOVERNMENTS TO BE MUCH
8 MORE RESPONSIVE TO BUSINESSES NEEDING ANSWERS TO
9 QUESTIONS REGARDING THE KINDS OF PERMITS THEY NEED.
10 THIS TRULY BRINGS OUR CUSTOMER SATISFACTION LEVELS UP
11 A NOTCH.

12 I'M PLEASED TODAY TO ANNOUNCE THE WASTE
13 BOARD'S VERY OWN INFORMATION MANAGEMENT SECTION HAS
14 BEEN RECOGNIZED BY CAL EPA FOR HELPING SET UP THEIR
15 DATABASE AND WEB SITES WITH THIS TECHNICAL AWARD FOR
16 CAL GOLD. CAL EPA SECRETARY PETER ROONEY WILL PRESENT
17 OUR STAFF WITH THIS AWARD ON AUGUST 34-- EXCUSE ME --
18 AUGUST 31ST. I KNOW IT WAS A LONG SESSION WHEN YOU'RE
19 IN THE BUDGET NEGOTIATIONS, BUT I DIDN'T KNOW THEY GO
20 THAT FAR OUT. ANYWAY, THAT WILL BE HELD AT THE WATER
21 RESOURCES CONTROL BOARD. THE WINNING STAFF INCLUDE
22 GARY ARSTEIN-KERSLALE, CHRIS ALLEN, BOB FUJII, MANORAK
23 MANN, DOUG RALSTON, MEIRVE DAVEY, AND MICHAEL KUHN.

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1 SO, AGAIN, I WANT TO CONGRATULATE STAFF FOR THAT.

2 MY NEXT ITEM HAS TO DO WITH OUR UPCOMING
3 LEA CONFERENCE. AS YOU MAY KNOW, THE SECOND ANNUAL
4 LEA WASTE BOARD CONFERENCE, ENTITLED "SUCCESS THROUGH
5 PARTNERSHIP," HAS BEEN SCHEDULED NEXT MONTH IN THE
6 LAKE TAHOE AREA. THESE CONFERENCES INCREASE THE
7 CRITICAL UNDERSTANDING OF KEY REGULATORY OF KEY
8 REGULATORY AND TECHNICAL ISSUES FACED BY BOARD AND LEA
9 STAFF. MOREOVER, THESE MEETINGS STRENGTHEN THE
10 WORKING RELATIONSHIP BETWEEN THESE TWO GROUPS FOR THE
11 MUTUAL BENEFIT OF CALIFORNIA AND ITS WASTE MANAGEMENT
12 PRACTICES. THE CONFERENCE WILL TAKE PLACE FROM AUGUST
13 19TH THROUGH 21ST, IN GRENELBACH, NEAR LAKE TAHOE.

14 AND FINALLY, FOR MY LAST ITEM, I WANT TO
15 REFER TO THE RIO LINDA CLEANUP OF LAST WEEK, MR.
16 CHAIRMAN. AS MANY OF YOU KNOW, LAST THURSDAY THE
17 WASTE BOARD IN SACRAMENTO COUNTY HELD A MEDIA EVENT ON
18 50 ACRES OF LAND LITTERED WITH TRASH IN A RIO LINDA
19 NEIGHBORHOOD. CHAIRMAN PENNINGTON MADE SEVERAL
20 EVENING NEWS BROADCASTS, ALONG WITH COUNTY SUPERVISOR
21 ROGER DICKERSON, AND TOGETHER THEY STRESSED THE
22 DANGERS OF ILLEGAL DUMPING AND BOTH THE STATE AND
23 COUNTY'S COMMITMENTS TO CLEANING UP SUCH UNLAWFUL

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1 SITES.

2 WHEN OUR CLEANUP OPERATIONS ARE
3 COMPLETED WITHIN THE NEXT FEW WEEKS, WE'LL HAVE
4 CLEARED THE COMMUNITY OF AN ESTIMATED 1500 TONS OF
5 GARBAGE AND OVER 100,000 WASTE TIRES.

6 THANKS TO THE EFFORTS OF OUR P&E
7 DIVISION AND THE OFFICE OF PUBLIC AFFAIRS, THIS EVENT
8 WAS A COMPLETE SUCCESS, WITH ALL FIVE AREA TV
9 STATIONS, TWO AREA RADIO STATIONS, AND THE "SACRAMENTO
10 BEE" IN ATTENDANCE. THIS EVENT RESULTED IN WIDELY-
11 BROADCASTED PUBLIC EDUCATION EFFORT AND DEMONSTRATES
12 THE IMPORTANCE OF OUR CLEANUP EFFORTS TO OUR
13 COMMUNITIES.

14 AND THAT CONCLUDES MY REPORT FOR THIS
15 MORNING. THANK YOU. UNLESS YOU HAVE ANY QUESTIONS?

16 CHAIRMAN PENNINGTON: THANK YOU, MR.
17 CHANDLER.

18 ARE THERE ANY QUESTIONS OF MR. CHANDLER?
19 IF NOT, WE'LL MOVE TO THE CONSENT CALENDAR.

20 AGENDA ITEM NO. 3: CONSIDERATION OF CONSENT

21 AGENDA ITEMS

22 CHAIRMAN PENNINGTON: THE CONSENT CALENDAR
23 INCLUDES ITEMS 8-A, 9, 12 THROUGH 14, 18 THROUGH 24,

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1 AND 27.

2 IS THERE ANY MEMBER WHO WISHES TO PULL
3 ANY ADDITIONAL ITEMS?

4 MEMBER FRAZEE: NO, SIR.

5 CHAIRMAN PENNINGTON: OKAY.

6 MEMBER FRAZEE: I MOVE TO ADOPTION OF THE
7 CONSENT CALENDAR.

8 MEMBER JONES: I'LL SECOND.

9 CHAIRMAN PENNINGTON: IT'S BEEN MOVED AND
10 SECONDED.

11 WITHOUT FURTHER DISCUSSION, SECRETARY,
12 CALL THE ROLL, PLEASE.

13 THE SECRETARY: BOARD MEMBER EATON?

14 MEMBER EATON: AYE.

15 THE SECRETARY: FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: CHAIRMAN PENNINGTON?

20 CHAIRMAN PENNINGTON: AYE.

21 THE MOTION CARRIES.

22 AGENDA ITEM NO. 4: CONSIDERATION AND APPROVAL OF
23 CONTRACT CONCEPTS FOR DISCRETIONARY CONSULTING AND

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1 PROFESSIONAL SERVICES FOR FISCAL YEAR 1998/99

2 CHAIRMAN PENNINGTON: NOW WE'LL MOVE TO ITEM
3 NO. 4, CONSIDERATION AND APPROVAL OF CONTRACT
4 CONCEPTS FOR DISCRETIONARY CONSULTING AND PROFESSIONAL
5 SERVICES FOR FISCAL YEAR 1998/99.

6 KAREN FISH. GOOD MORNING, KAREN.

7 MS. FISH: GOOD MORNING. THANK YOU, CHAIRMAN
8 PENNINGTON. KAREN FISH, DEPUTY DIRECTOR OF THE
9 DIVISION OF ADMINISTRATION. THIS ITEM IS THE
10 PRESENTATION AND CONSIDERATION AND APPROVAL OF THE
11 CONTRACT CONCEPTS FOR THE DISCRETIONARY CONSULTING AND
12 PROFESSIONAL SERVICES FOR FISCAL YEAR '98-99.

13 THESE CONCEPTS WERE BROUGHT BEFORE THE
14 ADMINISTRATION COMMITTEE IN JUNE AND AGAIN IN JULY.
15 AT THE JULY COMMITTEE MEETING THE MEMBERS VOTED TO
16 BRING THE CONCEPTS FORWARD FOR THE USED OIL PROGRAM
17 FOR CONSIDERATION AT THE BOARD, BUT REQUESTED STAFF TO
18 PREPARE A MORE COMPLETE BRIEFING FOR THE AUGUST BOARD
19 MEETING RELATING TO THE CONCEPTS FOR THE RMDZ FUND,
20 THE IWMA ACCOUNT, AND PROJECT RECYCLE.

21 PRIORITY AREA TEAMS ARE CURRENTLY
22 PREPARING PRESENTATIONS RELATED TO THE ADDITIONAL
23 FUNDING AUTHORITY ANTICIPATED IN RMDZ, AS WELL AS THE

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1 IWMA TO DEMONSTRATE HOW THE RECOMMENDED CONCEPTS WILL
2 FURTHER THE GOALS OF THE PRIORITY ACTION AREAS AND
3 SPECIFICALLY ADDRESS CUSTOMER NEEDS.

4 PROJECT RECYCLE STAFF ARE LOOKING IN
5 DEPTH AT THEIR APPROACHES AND OUTCOMES AND ARE
6 PREPARING A STRATEGY TO BETTER ASSIST STATE AGENCIES
7 WITH THEIR RECYCLING EFFORTS. THEY WILL BE BRINGING
8 AN ITEM FORWARD THIS FALL THAT WILL INCLUDE CONTRACT
9 CONCEPTS.

10 SO, THAT BRINGS US TO THE USED OIL
11 PROGRAM. THEY HAVE NINE CONCEPTS PRESENTED FOR YOUR
12 CONSIDERATION. AND BASED ON QUESTIONS RAISED AT THE
13 ADMIN COMMITTEE, THE PROGRAM HAS PREPARED A SHORT
14 PRESENTATION.

15 SO, IF YOU HAVE ANY QUESTIONS BEFORE
16 I'LL TURN IT OVER TO BOB BOUGHTON AND HE WILL BE
17 MAKING A PRESENTATION. DO YOU HAVE ANY QUESTIONS?

18 CHAIRMAN PENNINGTON: QUESTIONS ANYONE? NO.

19 MR. BOUGHTON: GOOD MORNING, BOARD MEMBERS,
20 MR. CHAIRMAN.

21 WE WANTED TO ADDRESS SOME OF THE
22 QUESTIONS ON THE INDUSTRIAL OIL CONCEPT THAT -- I
23 BELIEVE MEMBER EATON HAD A FEW QUESTIONS, AND OTHER

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1 BOARD MEMBERS AS WELL, SO WE WANTED TO GO THROUGH A
2 QUICK PRESENTATION, HOPEFULLY TO GIVE YOU AN IDEA OF
3 THE ISSUES THAT WERE FACED AND WHY WE BROUGHT THE
4 CONCEPT FORWARD, AND WHAT WE'RE TRYING TO ACHIEVE WITH
5 THAT.

6 THERE'S 280 MILLION GALLONS OF OIL,
7 INDUSTRIAL AND LUBRICATING OIL, SOLD IN THIS STATE
8 EACH YEAR OR AT LEAST THE LAST SEVERAL YEARS. THIS
9 NUMBER HAS INCREASED.

10 WHAT'S HAPPENED IN THE LAST SEVERAL
11 YEARS IS, WHEN THE PROGRAM STARTED WE BEGAN
12 ACCUMULATING DATA ON SALES FROM REPORTS FROM THE
13 MANUFACTURERS. AS YOU KNOW, THERE'S A 16-CENT PER
14 GALLON FEE THAT'S ASSESSED ON LUBRICATING OIL FOR USE
15 IN THE STATE, AND THE MANUFACTURERS REPORT BOTH
16 LUBRICATING AND INDUSTRIAL SALES TO US. HOWEVER,
17 THERE IS NO FEE PRESENTLY ATTACHED TO THE INDUSTRIAL
18 OIL.

19 FOR SEVERAL YEARS -- AND I'LL SHOW YOU A
20 GRAPH LATER -- THE INDUSTRIAL OIL SALES WERE LOW, IN
21 THE 80 MILLION GALLON RANGE PER YEAR, AND THAT SEEMED
22 OKAY TO US CONSIDERING THAT THE PROPORTION BETWEEN
23 LUBRICATING AND INDUSTRIAL OIL WAS CORRECT AND ALSO --

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1 OR, AT LEAST APPEARED TO BE CORRECT FROM A NATIONAL
2 PERSPECTIVE, AND ALSO THE FACT THAT CALIFORNIA WAS
3 STILL IN THE RECESSION PERIOD, IN '93 AND '94. BUT
4 NOW WE'RE GETTING ABOUT 280 MILLION GALLONS TOTAL.

5 THE FOCUS OF THE PROGRAM EFFORT IS
6 ESTIMATED LUBRICATING OIL SALES, AND THAT'S BETTER
7 THAN AN ESTIMATION BECAUSE WE GET THAT FROM THE
8 MANUFACTURERS FOR ALL OF THE LUBRICATING OIL. BUT FOR
9 EXACTLY HOW MUCH IS SOLD FOR AUTOMOTIVE USE, OR SOLD
10 TO A DIY, THE SELF-MECHANICS, WE DON'T HAVE ACCURATE
11 FIGURES FOR THAT.

12 WE'RE ALSO INTERESTED IN THE USED OIL
13 GENERATION, JUST HOW MUCH USED OIL IS GENERATED FROM
14 BOTH THE INDUSTRIAL AND THE LUBRICATING SECTOR, AND
15 ALSO WE'RE INTERESTED IN HOW MUCH OIL IS ACTUALLY
16 RECOVERED AND RECYCLED.

17 SO, LOOKING AT THE BREAKDOWN OF THOSE
18 280 GALLONS, IN 1997 THE TOTAL ANNUAL AMOUNT WAS 138
19 MILLION GALLONS OF LUBRICATING OIL. AND THAT'S FOR
20 ALL THE SOURCES, ALL THE USES, AND HEAVY-DUTY USE AS
21 WELL AS AUTOMOTIVE USE.

22 THE INDUSTRIAL OIL ACTUALLY EXCEEDED
23 THE LUBRICATING OIL SALES AT 142 MILLION GALLONS, AND

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1 THAT'S BASIC COMMERCIAL USE. THERE'S A WIDE VARIETY
2 OF USES, FROM PROCESS OILS, THAT END UP IN PRODUCTS
3 SUCH AS LIPSTICKS OR PHARMACEUTICALS AND OTHER
4 PRODUCTS, SO THE OIL IS COMPLETELY IN THE PRODUCT, TO
5 METAL-WORKING OILS AND HYDRAULIC OILS WHERE THERE IS A
6 FRACTION OF USED OIL THAT'S RECOVERED.

7 SO, JUST FOCUSING ON LUBRICATING OILS,
8 USING THE 138 MILLION GALLON TOTAL FOR 1997, AND THEN
9 USING SOME NATIONAL DATA ON HOW MUCH OIL IS ACTUALLY
10 USED FOR AUTOMOTIVE USE AND LIGHT-DUTY USE, WE GET A
11 SPLIT OF ABOUT 58 MILLION GALLONS, THAT'S FOR HEAVY-
12 DUTY USE. SO THAT'S LARGE TRUCKS, TRACTORS,
13 GENERATORS, ALL COMMERCIAL USES.

14 OF THAT WE'RE LOOKING AT ABOUT 29
15 MILLION GALLONS OF USED OILS BEING GENERATED AND ABOUT
16 29 MILLION GALLONS OF USED OIL BEING CONSUMED. WE
17 LOST THAT MOTION. AND THAT'S AN ESTIMATE OF ABOUT 50
18 PERCENT GENERATION. AND THAT'S A NUMBER THAT'S BASED
19 UPON SEVERAL STUDIES FROM -- AND JUST INFORMATION,
20 KIND OF LOOSE INFORMATION, FROM ALL SORTS OF NATIONAL
21 OR OTHER STATES, NATIONAL INFORMATION.

22 FROM THE 80 MILLION GALLONS THAT IS THE
23 LIGHT-DUTY, AUTOMOTIVE USE, CARS AND LIGHT TRUCKS,

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1 THERE'S -- THE NATIONAL CONSENSUS IS THAT ABOUT HALF
2 OF THAT IS SELF-INSTALLED AND THE OTHER HALF IS
3 SERVICE-INSTALLED.

4 OF THE DIY FRACTION, WE'RE ASSUMING THAT
5 THERE'S ABOUT A 65 PERCENT RECOVERY RATE. SO WHAT
6 WE'RE LOOKING AT IS 26 GALLONS OF USED OIL GENERATED.

7 FROM THE SERVICE INSTALLATION WE'RE LOOKING AT
8 PROBABLY A 70 PERCENT GENERATION RATE OF USED OILS.

9 SO, WHAT WE'RE ASSUMING IS THAT 83
10 MILLION GALLONS OF USED OILS FROM THE AUTOMOTIVE
11 SECTOR, BOTH SERVICE AND MECHANICS, SELF-HOME
12 MECHANICS, ARE GENERATING ABOUT 83 MILLION GALLONS A
13 YEAR.

14 FOR INDUSTRIAL OILS WE HAVEN'T FOCUSED
15 MUCH ATTENTION ON THIS MOSTLY BECAUSE THE PROGRAM IS
16 REALLY FOCUSED ON THE DO-IT-YOURSELF AND IT --
17 PROVIDING OPPORTUNITIES FOR THOSE PEOPLE TO RECYCLE.
18 BUT, WHAT WE'RE ASSUMING THERE FOR A GENERATION RATE
19 IS 52 PERCENT FACTOR. SO, APPLYING THAT TO THE 142
20 MILLION GALLONS OF INDUSTRIAL OILS LEAVES ABOUT 68
21 MILLION GALLONS CONSUMED AND LOST DURING USE AND 74
22 MILLION GALLONS OF USED OIL GENERATED. SO, YOU CAN
23 SEE THAT'S RIVALING THE AUTOMOTIVE AND LUBRICATING OIL

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1 SECTOR.

2 LOOKING AT THE INDUSTRIAL OIL
3 DEFINITION, MORE SPECIFICALLY FROM THE PRC, YOU KNOW,
4 YOU CAN READ THAT. IT'S PRETTY MUCH ANYTHING BUT
5 LUBRICATING OIL, WHICH BY DEFINITION IS ANY OILS USED
6 OR ASSOCIATED WITH INTERNAL COMBUSTION MOTORS. SO IT
7 DOES INCLUDE ATF, TRANSMISSION FLUIDS, DIFFERENTIAL
8 FLUIDS, GREASES BUT NOT TYPICALLY BRAKE FLUIDS AND
9 OTHER HYDRAULIC TYPE FLUIDS.

10 SO THIS IS JUST A SUMMATION HERE FROM A
11 SLIDE, 280 MILLION GALLONS TOTAL OF OIL SOLD. AND
12 WHAT WE'RE LOOKING AT FROM OUR ESTIMATES ARE 83
13 MILLION AND 74 MILLION GALLONS OF USED OILS FROM THESE
14 TWO SECTORS.

15 NOW, THE NEXT SLIDE SHOWS -- IF WE'RE
16 LOOKING AT A RECYCLING RATE FROM LUBRICATING OIL,
17 WE'RE LOOKING -- RIGHT NOW WE'RE ABOUT 61 MILLION
18 GALLONS OF LUBRICATING OIL RECYCLED. AND THAT'S FROM
19 REPORTS FROM THE PROCESSORS. AND THERE'S FOUR
20 PROCESSORS NOW THAT ARE REPORTING TO US, PLUS SOME
21 OUT-OF-STATE OILS. AND WE'RE ASSUMING THAT 83
22 MILLION-GALLON FACTOR, AND THAT GIVES US 74 PERCENT
23 RECYCLING RATE FOR ALL LUBRICATING OILS.

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1 FOR INDUSTRIAL OILS, THE NEXT SLIDE
2 SHOWS THAT THE REPORTS FROM THE PROCESSORS ARE SHOWING
3 19 MILLION GALLONS OF LUBRICATING OILS RECYCLED -- OR,
4 EXCUSE ME -- OF INDUSTRIAL OILS RECYCLED VERSUS OUR
5 COMPUTATION OF 74 MILLION GALLONS GENERATED. AND THAT
6 LEAVES A PRETTY POOR RECYCLING RATE FOR THE INDUSTRIAL
7 OIL SECTOR.

8 IF YOU COMBINE ALL OF THE OILS --
9 BECAUSE THE PROCESSORS HAVE RECEIVED THE OIL IN A
10 COMMINGLED FASHION, THEY'RE NOT GETTING ALL OF THE
11 OILS SEPARATED. YOU KNOW, IT'S TYPICAL FOR THE
12 HAULERS TO HAVE COLLECTED OIL FROM VARIOUS SOURCES.
13 THERE MAY BE HYDRAULIC OIL IN THE OIL THAT -- FROM
14 TRUCK SERVICE AT A FLEET, OR THERE COULD BE OILS
15 COMMINGLED AT A TRANSFER STATION. SO BY THE TIME IT
16 GETS TO A PROCESSOR, IT'S DIFFICULT FOR THEM TO
17 ASCERTAIN HOW MUCH INDUSTRIAL OIL THEY'VE GOTTEN AND
18 HOW MUCH LUBRICATING OIL THEY'VE GOTTEN. BUT THEY DO
19 REPORT THAT TO US.

20 USING ALL OF THE OILS SOLD, THAT 280
21 MILLION GALLONS, AND FIGURING OUT THROUGH OUR FACTORS
22 OF GENERATION HOW MUCH USED OIL WE BELIEVE IS
23 GENERATED, AND COMPARING THAT TO HOW MUCH IS RECYCLED,

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1 WE'RE LOOKING AT A 51 PERCENT RATE.

2 SO, YOU CAN SEE HOW IMPORTANT IT IS TO
3 US TO HAVE ACCURATE INDUSTRIAL OIL FIGURES WHEN IT'S
4 OF SUCH A HIGH GALLONAGE THAT'S REALLY INFLUENCING
5 THIS OVERALL RECYCLING RATE NUMBER THAT WE COMPUTE
6 HERE.

7 THE NEXT SLIDE SHOWS A HISTORICAL
8 PERSPECTIVE. THE JAGGED S-SHAPED CURVE THAT IS AT THE
9 VERY BOTTOM AND THEN RISES UP ABOVE THE OTHER ONE IS
10 THE ACTUAL DATA THAT WE HAVE REPORTED TO US BY THE
11 MANUFACTURERS FOR THE INDUSTRIAL OIL SALES.

12 WE BECAME CONCERNED WHEN WE SAW THIS
13 HUGE INCREASE BACK IN '95 AND '96. THAT APPEARS TO
14 HAVE PLATEAUED NOW. THAT MATCHES THE ECONOMIC
15 RECOVERY OF CALIFORNIA, SO THAT SOUNDS GOOD. BUT,
16 IT'S -- ACTUALLY EXCEEDS THE AMOUNT OF LUBRICATING OIL
17 SALES NOW.

18 AND WHEN WE'VE LOOKED BACK AT THE
19 NATIONAL FIGURES FOR LUBRICATING AND INDUSTRIAL OIL
20 SALES, OVER THE YEARS IT'S REALLY CHANGED VERY, VERY
21 LITTLE FROM A 60/40 SPLIT, 60 PERCENT LUBRICATING, 40
22 PERCENT INDUSTRIAL OIL. AND WE'RE SEEING CLOSER TO A
23 50/50. SO, WE'RE VERY CONCERNED THAT THIS NUMBER MAY

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1 BE TOO HIGH.

2 WE ALSO RECOGNIZE THAT CALIFORNIA IS A
3 NET PRODUCER AND AN EXPORTER OF PETROLEUM PRODUCTS,
4 AND WE'RE CONCERNED THAT THE MANUFACTURERS ARE NOT
5 ABLE TO TRACK THEIR OILS FROM, PERHAPS, THEIR FIRST
6 SALE TO SOME DEALER THAT MAY BE SHIPPING IT OUT OF
7 STATE, AND WHAT WE'RE REALLY SEEING ARE THE CALIFORNIA
8 PRODUCTION NUMBERS, BUT NOT WHAT'S CONSUMED IN
9 CALIFORNIA BECAUSE THE MANUFACTURERS AREN'T TRACKING
10 IT AND DON'T KNOW WHAT'S ACTUALLY CONSUMED WHERE FOR
11 THE LUBRICATING OIL. BECAUSE THE FEE IS ATTACHED, IF
12 WE GET REFUNDS FROM PEOPLE THAT DO SHIP THE OIL OUT OF
13 STATE, THOSE NUMBERS ARE TAKEN AWAY FROM THE SALES
14 DATA SO IT -- WE HAVE MORE CONFIDENCE IN THE
15 LUBRICATING OIL CONSUMPTIVE NUMBER FOR THE STATE.

16 LOOKING AT THESE OTHER TWO LINES ON THE
17 GRAPH, WHAT WE DID WAS WE HAVE LOOKED AT GROSS
18 NATIONAL PRODUCT FOR THE CALIFORNIA SHARE OF NATIONAL
19 JUST TO GET AN IDEA OF -- AS AN INDEX TO COMPARE THIS
20 INDUSTRIAL SALES TO. AND THE LOW NUMBER -- I MEAN,
21 YOU CAN LOOK AT POPULATION BASES, GROSS NATIONAL
22 PRODUCT, AND ALSO MILES DRIVEN, AND THOSE ARE WITHIN
23 THESE TWO BOUNDS.

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1 SO WE TRIED TO USE THAT JUST TO GIVE US
2 SOME MORE CONFIDENCE IN, YOU KNOW, WERE WE BETTER OFF
3 WITH A 90- OR 80 MILLION-GALLON INDUSTRIAL OIL SALES,
4 OR IS IT REALLY THIS 140.

5 WHAT GIVES US THE GREATEST CONCERN IS
6 THAT WHEN YOU'RE LOOKING AT THIS 140 MILLION-GALLONS
7 OF INDUSTRIAL OIL SALES AND 74 MILLION GALLONS OF
8 INDUSTRIAL OIL USED OIL GENERATED AND THEN YOU LOOK AT
9 THE 19 MILLION THAT WAS ACTUALLY REPORTED AS RECOVERED
10 FROM THE PROCESSORS, WE'VE GOT 55 MILLION GALLONS AS A
11 GAP, MISSING OIL. WHAT'S HAPPENING TO THAT?

12 AND THAT'S REALLY THE REASON THAT WE'RE
13 SO CONCERNED ABOUT THIS. WE JUST DON'T HAVE
14 CONFIDENCE THAT THAT SALES FIGURE IS ACCURATE OR THAT
15 OUR GENERATION FACTOR IS COMPLETELY ACCURATE, AS WELL.

16 I ALREADY MENTIONED THAT USED OIL WAS
17 COMMINGLED, AND I STARTED TO TALK ABOUT THIS LACK OF
18 CONFIDENCE WHERE WE ARE RELYING ON THE ESTIMATES OF
19 LUBRICATING AND INDUSTRIAL OIL, THE AMOUNT RECYCLED
20 FROM THE PROCESSORS, AND I'M NOT SURE THAT THEY HAVE
21 THE MOST ACCURATE INFORMATION.

22 AND THE NEXT SLIDE REALLY COMES DOWN TO
23 THE CONCLUSION. WHAT WE'RE HOPING TO ACHIEVE FROM THE

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1 CONTRACT CONCEPT WAS TO GET A BETTER HANDLE ON WHAT
2 THE INDUSTRIAL OIL CONSUMPTION IS IN THIS STATE. SO,
3 WE'RE HOPING TO GET SOMEONE TO LOOK AT THE INDUSTRY
4 SECTORS, LOOK AT THE VOLUMES CONSUMED, AND ACTUALLY
5 GET A BETTER IDEA OF HOW MUCH INDUSTRIAL OIL IS
6 ACTUALLY CONSUMED IN THE STATE.

7 NEXT, WE'RE INTERESTED IN -- WELL, GOING
8 HAND-IN-HAND WITH THAT, IF WE COULD FIND OUT VIA THE
9 SALES, SUBSEQUENT SALES, HOW MUCH OIL IS EXPORTED THEN
10 THAT WOULD GIVE US A KIND OF A BACK-DOOR METHOD OF HOW
11 MUCH OIL IS CONSUMED IN THIS STATE.

12 THEN THE LAST IS WHAT'S HAPPENING TO
13 THAT OIL AFTER IT'S BEEN USED, YOU KNOW, WHAT ARE THE
14 PRACTICES OF THE MAJOR INDUSTRY SECTORS WITH THEIR
15 USED OILS?

16 WELL, WE KNOW THAT NATIONALLY IT'S
17 ACCEPTED THAT THE CONSTRUCTION AND MINING INDUSTRIES
18 ARE PRETTY HEAVY USERS OF OILS. THERE ISN'T THAT MUCH
19 MINING IN CALIFORNIA COMPARED TO REST OF THE NATION.
20 THERE'S A LOT OF CONSTRUCTION AND AGRICULTURE. AND WE
21 KNOW AGRICULTURE OBVIOUSLY IS A LARGE COMPONENT OF THE
22 CALIFORNIA ECONOMY. SO, WE KNOW THOSE SECTORS ARE
23 ONES TO APPROACH AND FIND OUT MORE ABOUT THEIR USE AND

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1 THEIR MANAGEMENT PRACTICES.

2 SO, ARE THERE ANY QUESTIONS ON THE
3 PRESENTATION OR FURTHER QUESTIONS ON THE CONTRACT
4 CONCEPT I COULD ANSWER?

5 CHAIRMAN PENNINGTON: MEMBER EATON?

6 MEMBER EATON: YES. ALSO AS PART OF THE
7 BOARD RECORDS WE ASKED FOR AN UPDATE ON THE
8 LEGISLATION PROPOSING THE TAX ON INDUSTRIAL OILS.
9 COULD YOU GIVE THAT TO US, AS WELL, BEFORE WE ASK SOME
10 QUESTIONS?

11 MR. BOUGHTON: I'LL TURN THAT OVER TO PATTY
12 ZWARTS.

13 MS. ZWARTS: GOOD MORNING, BOARD MEMBERS. I
14 BELIEVE YOU'RE REFERRING TO SB 2170 BY SENATOR SHERE
15 WHICH IS NOT IN PRINT AS YET. THIS BILL IS PROPOSED
16 TO GO TO CONFERENCE COMMITTEE WHICH, AGAIN, HAS NOT
17 BEEN SCHEDULED YET.

18 THIS BILL WILL BE THE VEHICLE IN
19 CONFERENCE COMMITTEE FOR SUPERFUND REFORM. RIGHT NOW
20 THEY ARE HAVING WORK GROUP MEETINGS. THEY HAD ONE
21 LAST WEEK, AND THEY WILL BE HAVING ONE AGAIN LATER
22 THIS WEEK TO BE REPORTING -- I UNDERSTAND AUGUST 10TH
23 IN SOME SORT OF PUBLIC SETTING -- A LANGUAGE FOR THE

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1 SUPERFUND REFORM BILL WHICH WILL GO, LIKE I SAID, INTO
2 CONFERENCE COMMITTEE.

3 THERE IS A PROVISION OF THIS PROPOSED
4 DRAFT LANGUAGE THAT WOULD TAKE \$20 MILLION, ONE TIME,
5 FROM THE BOARD'S USED OIL PROGRAM, AND \$8 MILLION
6 ANNUALLY, TO HELP FUND AN ORPHAN CLEANUP PROGRAM.
7 OTHER FUND SOURCES WILL ALSO BE PUT INTO THIS ORPHAN
8 PROGRAM TO GENERATE APPROXIMATELY \$25 MILLION TO \$28
9 MILLION ANNUALLY FOR THE PURPOSES OF ORPHAN SITE
10 CLEANUP OF SUPERFUND SITES.

11 I'D BE HAPPY TO ANSWER MORE QUESTIONS
12 ABOUT THE LEGISLATION.

13 CHAIRMAN PENNINGTON: MR. EATON.

14 MEMBER EATON: YEAH. SO, THIS -- THE MONIES
15 WOULD BE ON THE INDUSTRIAL OIL SEGMENT. IS THAT
16 CORRECT?

17 MS. ZWARTS: YES.

18 MEMBER EATON: THE TAX.

19 MS. ZWARTS: I APOLOGIZE, I FORGOT THAT PART.
20 SIXTEEN CENTS --

21 MEMBER EATON: SIXTEEN CENTS.

22 MS. ZWARTS: -- ON THE SALE OF INDUSTRIAL OIL
23 WOULD ALSO GO INTO THIS FUND TO HELP PAY FOR IT.

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1 MEMBER EATON: AND IS THERE A PROVISION AT
2 ALL FOR MONITORING OR TRACKING HOW THIS WOULD BE -- I
3 THINK MR. BOUGHTON HAD MENTIONED THE FACT THAT ONE OF
4 THE BEST WAYS TO TRACK THIS TYPE OF ACTIVITY IS -- AT
5 LEAST ON THE ONE SIDE THAT WE'RE DOING IT -- IS BY --
6 THROUGH OUR FEE THAT WE HAVE.

7 SO, IN ESSENCE, IF THERE IS A FEE THAT'S
8 GOING TO BE IMPOSED IN INDUSTRIAL OIL, IT WOULD BE A
9 WAY TO TRACK THOSE FIGURES. IS THAT CORRECT?

10 MR. BOUGHTON: IT SHOULD GIVE US MORE
11 ACCURATE SALES FROM THE MANUFACTURERS' LEVEL, AND
12 WHAT'S INTERESTING TO NOTE IS, I BELIEVE THE ORIGINAL
13 CONCEPT BEHIND THIS SUPERFUND LEGISLATION WAS USING A
14 RANGE OF 90 MILLION GALLONS OF INDUSTRIAL OIL, WHICH
15 GENERATES A CERTAIN AMOUNT OF MONEY, WHICH GIVES THEM
16 A GAP, WHICH THEN THEY'RE ATTEMPTING TO APPROACH US
17 FOR TO FILL THAT GAP.

18 IF THE 140 MILLION GALLONS OF INDUSTRIAL
19 OIL SOLD IS AN ACCURATE NUMBER, THEY'LL HAVE MORE
20 MONEY THAN WE DO FROM THE USED OIL FUND. SO, I DON'T
21 THINK THEY'LL NEED THAT GAP TO BE FILLED. BUT, THAT'S
22 THE QUESTION, IS THAT 140 ACCURATE? WE DON'T KNOW.

23 MEMBER EATON: RIGHT. AND THAT'S WHAT I'M

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1 TRYING TO TRACK.

2 MR. BOUGHTON: RIGHT.

3 MEMBER EATON: IS IT PREMATURE --

4 (THE PARTIES SIMULTANEOUSLY SPEAK.)

5 MALE VOICE: -- THAT WE'RE GOING THROUGH WITH
6 THIS CONTRACT CONCEPT, UNTIL WE HAVE AN IDEA OF WHERE
7 THE LEGISLATION MIGHT BE GOING. AND, IS THERE A WAY
8 THAT WAY THAT WE CAN PIGGYBACK WHAT WE NEED IF WE ARE
9 GOING TO BE SADDLED, AND PERHAPS ROBBED, OF SOME
10 ADDITIONAL FUNDS?

11 AND, IS IT NOT BETTER TO --

12 (THE PARTIES SIMULTANEOUSLY SPEAK.)

13 MR. BOUGHTON: -- WE THOUGHT IT ON THE
14 CONCEPT, BECAUSE IF THAT GOES THROUGH, THEN WE'LL HAVE
15 A BETTER IDEA OF WHAT THE GROSS AMOUNT OF INDUSTRIAL
16 OIL IS SOLD. BUT, WE STILL DON'T HAVE AN IDEA OF THE
17 SPLIT TO VARIOUS USES AND SECTORS' USE.

18 AND WE CAN USE THIS CONTRACT CONCEPT TO
19 SIMPLY GO DEEPER. RATHER THAN LOOKING AT THE TOP AND
20 TRYING TO QUANTIFY, WE'LL GO DEEPER AND TRY TO FIND
21 OUT WHO'S GENERATING IT, WHAT THEIR PRACTICES OF
22 MANAGEMENT ARE. SO, THE CONCEPT CAN STILL BE THERE
23 AND BE USED AS A VEHICLE TO GET US DEEPER INTO THE

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1 ISSUE.

2 MEMBER EATON: FOR THE LUBRICATING OILS, HOW
3 MANY OF THE INDIVIDUALS THAT WE NOW TRACK ON THAT SIDE
4 ALSO UTILIZE INDUSTRIAL?

5 YOU HAD MENTIONED THAT WE HAVE THE
6 ABILITY -- THAT MANY OF THOSE INDIVIDUALS -- I THINK,
7 AND I DON'T WANT TO SPEAK FOR YOU, BUT I THOUGHT YOU
8 SAID UP TO 25 PERCENT OF THOSE INDIVIDUALS WOULD USE
9 BOTH TYPES OF OILS.

10 MR. BOUGHTON: WE HAVE VERY LITTLE
11 INFORMATION ON THE CONSUMERS OF THE OIL. WE ONLY KNOW
12 THE MANUFACTURING LEVEL AND THE GENERATION, CREATION
13 OF THE OIL.

14 MEMBER EATON: DO WE HAVE ANY --

15 MR. BOUGHTON: WE HAVE SOME, BUT IT'S -- YOU
16 KNOW, IT'S --

17 MEMBER EATON: BUT DO WE HAVE A SENSE OF LIKE
18 THE AUTOMOTIVE REPAIR SHOPS, WOULD THEY USE BOTH TYPES
19 OF OIL?

20 MR. BOUGHTON: VERY LITTLE HYDRAULIC, BECAUSE
21 IT'S PRETTY MUCH JUST BRAKE FLUID, UNLESS THEY'RE
22 SERVICING FORKLIFTS OR SOMETHING, TRACTORS, WHERE THEY
23 WOULD HAVE A SIGNIFICANT AMOUNT OF HYDRAULIC OIL USE.

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1 MEMBER EATON: SO I GUESS WHAT I'M TRYING TO
2 GET AT IS -- WHERE I'M STILL HAVING A HARD TIME
3 FINDING WHERE THE SCOPE OF THIS IS AND FOR WHAT THE
4 END PURPOSE IS. I KNOW ULTIMATELY YOU WANT TO GET TO
5 RECYCLING. WHEN YOU START DEALING WITH INDUSTRIAL
6 OIL MARKET, I GET A LITTLE NERVOUS.

7 MR. BOUGHTON: OKAY. THE END PURPOSE IS,
8 WHAT INDEX DO WE USE TO FIGURE OUT WHETHER THE PROGRAM
9 IS EFFECTIVE OR NOT?

10 THE ORIGINAL LEGISLATION PUT FORWARD THE
11 REQUIREMENT THAT WE REPORT THE SALES AND THE RECYCLING
12 RATE FOR THE OILS. THAT DOESN'T APPEAR TO BE A VERY
13 GOOD WAY TO MEASURE THE BOARD'S PROGRAM EFFECTIVENESS,
14 BECAUSE IT HAS ALL OF THESE OILS, THE INDUSTRIAL OILS,
15 ALL COMMINGLED INTO IT.

16 SO, TO REPORT THIS 51 PERCENT RECYCLING
17 RATE MAY NOT LOOK GOOD, AND IT MAY NOT CHANGE ENOUGH
18 AS WE INFLUENCE MORE DO-IT-YOURSELFERS TO RECYCLE
19 BECAUSE THEY'RE SUCH A SMALL FRACTION OF THE TOTAL.

20 SO, IF OUR PROGRAM -- AND I DON'T
21 BELIEVE OUR PROGRAM IS MANDATED TO ADDRESS INDUSTRIAL
22 USERS AND THEIR MANAGEMENT OF OIL -- WE'RE NOT GOING
23 TO BE ABLE TO USE THIS OVERALL PERCENTAGE RECYCLING

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1 RATE AS AN INDEX OF THE PROGRAM'S GAINS.

2 SO, WE'RE LOOKING AT OTHER WAYS TO JUST
3 FOCUS ON DIY. BUT, THIS IS WHAT'S IN THE STATUTE
4 RIGHT NOW AS SOMETHING TO REPORT. AND WE CAN STILL
5 REPORT THAT, AND REPORT OTHER WAYS WHERE WE'RE REALLY
6 FOCUSING JUST ON THE DIY, AND REALLY WHAT THE
7 PROGRAM'S DOING AND WHAT THE BOARD'S DOING.

8 BUT, IT IS INTERESTING TO NOTE THAT I --
9 I BELIEVE THE ORIGINAL LEGISLATION FOR THE OIL ACT
10 CAME THROUGH, THAT THE GENERAL INDUSTRY WAS NOT
11 SUPPORTIVE OF A FEE ON INDUSTRIAL OILS BECAUSE IT'S
12 EITHER CONSUMED IN THE PRODUCT OR THEY CLAIMED IT WAS
13 COMPLETELY RECYCLED.

14 WELL, OUR NUMBERS DON'T BACK THAT UP.
15 WE'RE ONLY SEEING 26 PERCENT RECYCLED. SO THAT,
16 AGAIN, IF INDUSTRY IS TO BE BELIEVED AND THEY DO
17 RECYCLE WHOLEHEARTEDLY ALL OF THEIR OILS, THEN THAT
18 THROWS OUR SALES NUMBERS INTO QUESTION AS BEING TOO
19 HIGH. AND IT THROWS THE QUESTION INTO THE -- HOW
20 ACCURATE THE SPLIT IS FROM PROCESSORS OF USED OIL, HOW
21 MUCH IS LUBRICATING AND HOW MUCH IS INDUSTRIAL.

22 SO, SO MANY OF THESE NUMBERS ARE FOGGY
23 TO US. WE'RE TRYING TO GET MORE ACCURATE DATA, MORE

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1 ACCURATE INFORMATION SO WE GET MORE CONFIDENCE IN WHAT
2 IS REALLY HAPPENING OUT THERE FROM THIS BIG
3 PERSPECTIVE.

4 CHAIRMAN PENNINGTON: MEMBER JONES?

5 MEMBER JONES: BOB, ON THE INDUSTRIAL SIDE, I
6 THINK TO SAY THAT 51 PERCENT OF ALL OIL IS RECYCLED IS
7 PROBABLY -- WHEN YOU'RE LOOKING AT WHO HAULS IT OFF
8 AND TAKES IT TO A RE-REFINER, THE NUMBER'S NOT VALID
9 FOR INDUSTRIAL OIL BECAUSE INDUSTRIAL OILS THAT ARE
10 USED AS MOTION OILS ARE NOT DRAINED. IT'S NOT A
11 PROCESS WHERE EVERY YEAR THAT OIL BREAKS DOWN, YOU
12 DRAIN IT, YOU PUT IT INTO THE RECYCLING --

13 MR. BOUGHTON: RIGHT.

14 MEMBER JONES: -- TANK. YOU -- YOU KNOW,
15 WE'VE GOT MACHINES THAT YOU HOOK UP AND YOU JUST
16 FILTER THAT OIL TO GET ANY METALS OUT --

17 MR. BOUGHTON: RIGHT.

18 MEMBER JONES: -- AND IT IS CONTINUALLY
19 REUSED. SO THAT OIL SALE OF INDUSTRIAL OIL, ALL THAT
20 DOES IS BRING THOSE LEVELS BACK UP TO FULL. SO --

21 MR. BOUGHTON: RIGHT. AND WE ACCOUNT FOR
22 THAT IN OUR GENERATION RATE. WE TAKE THE SALES AND
23 MULTIPLY IT BY A USED OIL GENERATION FACTOR, WHICH

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1 THEN SHOULD GIVE US THE AMOUNT OF USED OIL GENERATED.

2 MEMBER JONES: NO. IT'S ON SITE.

3 MR. BOUGHTON: SO, WELL --

4 MEMBER JONES: IT'S ON SITE, IS WHAT I'M
5 SAYING.

6 MR. BOUGHTON: RIGHT.

7 MEMBER JONES: IT NEVER GOES SOMEWHERE ELSE.

8 MR. BOUGHTON: THAT'S ACCOUNTED FOR, IF THAT
9 FIGURE IS ACCURATE, BECAUSE SO MUCH OF THE OIL IS LOST
10 DURING USE OR IT'S INCORPORATED INTO THE PRODUCT --
11 SUCH AS METAL TURNINGS -- THE OIL'S GOING OFF WITH THE
12 METAL.

13 MEMBER JONES: RIGHT. RIGHT.

14 MR. BOUGHTON: SO, THAT'S ACCOUNTED FOR. THE
15 OIL THAT IS REPROCESSED ON SITE, THE PEOPLE AREN'T
16 BUYING NEW OIL AT THAT SAME VOLUME, SO IT -- IT WEIGHS
17 IN. WE CAN TALK MORE LATER, BUT WE'VE TRIED TO
18 ACCOUNT FOR THOSE THINGS.

19 SO, THE QUESTION IS, HAVE WE ACCURATELY
20 ACCOUNTED FOR IT? MAYBE THAT GENERATION FACTOR, THAT
21 RATE, THAT WEIGHING FACTOR IS INACCURATE. AND THERE
22 ISN'T MUCH INFORMATION OUT THERE TO GET MORE
23 CONFIDENCE IN THAT EITHER.

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1 MEMBER JONES: SO THIS 50 GRAND IS GOING TO
2 BE THE -- TO DETERMINE THAT?

3 MR. BOUGHTON: NO. WHAT WE'RE TRYING TO DO -
4 - IF THE TOXICS PROPOSAL DOESN'T GO THROUGH, THEN
5 WE'LL FOCUS MORE ON TRYING TO GET AN ACCURATE PICTURE
6 OF HOW MUCH INDUSTRIAL OIL IS CONSUMED IN THE STATE OF
7 CALIFORNIA.

8 MEMBER JONES: OKAY. BUT I THINK WHERE I'M
9 GETTING CONFUSED IS THE WORD "CONSUMED."

10 MR. BOUGHTON: RIGHT.

11 MEMBER JONES: OKAY. IT'S PURCHASED --
12 DEPENDING UPON THE APPLICATION IT'S EITHER CONSUMED,
13 WHICH WOULD BE OIL TURNINGS, THOSE TYPE OF THINGS --

14 MR. BOUGHTON: OKAY. RIGHT, I --

15 MEMBER JONES: -- OR IT IS JUST USED. IT'S -
16 -

17 MR. BOUGHTON: RIGHT.

18 MEMBER JONES: IT NEVER GOES ANY --

19 MR. BOUGHTON: I USED THE WORD "CONSUMED" IN
20 TWO DIFFERENT FASHIONS, SO I APOLOGIZE FOR THAT.

21 WHAT I MEAN IS HOW MUCH IS ACTUALLY USED
22 IN THIS STATE. WE KNOW THERE'S EXPORTS THAT HAPPEN
23 SUBSEQUENT TO THE MANUFACTURER'S FIRST SALE. BUT WE

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1 DON'T GET THAT INFORMATION. WE DON'T KNOW HOW MUCH IT
2 IS. AND THERE MAY BE....

3 WE ALSO WOULD LIKE TO FOCUS SOME MORE
4 ATTENTION ON THAT GENERATION FACTOR, BUT IT'S -- WE
5 TRIED TO DO THAT SEVERAL YEARS AGO FOR AUTOMOTIVE USE
6 AND IT PROVED VERY DIFFICULT AND MOST INDUSTRIES OR
7 PLACES AREN'T VERY INTERESTED IN TRACKING THE
8 INFORMATION OR SHARING IT WITH YOU. SO, IT BECOMES A
9 HUGE PROJECT.

10 MEMBER EATON: MR. CHAIR, I CONTINUE TO BE
11 CONFUSED, BUT I WILL TAKE IT ON STAFF'S FAITH. BUT I
12 WOULD LIKE THAT IF, INDEED, WE APPROVE THIS CONTRACT
13 CONCEPT, THAT THE SCOPE OF WORK COME BACK BEFORE US.
14 AND, SO THAT WE CAN EITHER FIND OUT WHETHER OR NOT WE
15 HAVE -- HAD THE ABILITY -- IF WE ARE GOING TO BE
16 INCLUDED IN SENATOR SHER'S BILL, IF THERE ISN'T A WAY
17 THAT WE CAN'T GET SOME OF THIS INFORMATION DONE AT
18 THEIR EXPENSE SINCE WE'RE PAYING FOR IT ANYWAYS
19 THROUGH --

20 MR. BOUGHTON: RIGHT.

21 MEMBER EATON: -- THROUGH ROUGHLY \$20
22 MILLION, AND I WOULD THINK A \$50,000 LITTLE
23 EXPENDITURE OUT OF THAT LITTLE \$20 MILLION THEFT WOULD

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1 PROBABLY BE A SMALL AMOUNT AND A SMALL PRICE TO PAY.

2 AND, THEREFORE, BEFORE WE GO FORWARD, TO
3 GET THE SCOPE OF WORK BACK HERE SO THAT WE CAN MAKE
4 SURE THAT IT'S AT LEAST NOT DUPLICATIVE AND AT THE
5 VERY LEAST GOING TO BE SOMETHING THAT WE CAN UTILIZE,
6 GIVEN PERHAPS WHAT THE END RESULT OF THAT PIECE OF
7 LEGISLATION MIGHT BE.

8 AND, IN THE EVENT THAT THAT LEGISLATION
9 DOESN'T GO FORWARD, IT DOESN'T PASS, THEN OBVIOUSLY
10 WE'RE NO WORSE OFF THAN WE WERE BEFORE.

11 CHAIRMAN PENNINGTON: CORRECT. AND AS A
12 MATTER OF COURSE, ONCE THE CONCEPT IS APPROVED THE
13 BOARD MEMBERS WOULD SEE THE CONCEPT -- I MEAN, THE
14 SCOPE OF WORK.

15 SO, I'D BE HAPPY TO ENTERTAIN A MOTION
16 ON THIS.

17 MEMBER JONES: I'LL MAKE A MOTION, MR. CHAIR,
18 THAT WE APPROVE CONCEPT NUMBER 15.

19 ACTUALLY, DID WE HAVE MORE DISCUSSION ON 16
20 THROUGH 23? I THOUGHT WE WERE DONE.

21 CHAIRMAN PENNINGTON: RIGHT. JUST THE
22 TWO --

23 MEMBER JONES: THAT'S ALL WE HAD WAS TWO OIL

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1 FUNDS. RIGHT?

2 CHAIRMAN PENNINGTON: RIGHT. THE USED OIL
3 FUND --

4 MALE VOICE: -- WE HAVE NO QUESTIONS ON
5 THOSE.

6 CHAIRMAN PENNINGTON: -- ADMINISTRATION.

7 MEMBER JONES: ALL RIGHT. THEN I'LL MAKE A
8 MOTION THAT WE ADOPT CONCEPTS 15, 16, 17, 18, 19, 20,
9 21, 22, AND 23, WHICH ARE BOTH OIL.

10 CHAIRMAN PENNINGTON: DID YOU HAVE ANY
11 DISCUSSION?

12 MR. FRAZEE: NO, THAT'S ALL INCLUDED IN
13 RESOLUTION 98-262, THEN? IS THAT --

14 CHAIRMAN PENNINGTON: CORRECT.

15 MEMBER JONES: AGAIN, THANK YOU, MR. FRAZEE.
16 I'LL SECOND MR. FRAZEE'S MOTION.

17 CHAIRMAN PENNINGTON: OKAY. MEMBER JONES
18 MOVES, MR. FRAZEE SECONDS THE ADOPTION OF -- SOMEWHERE
19 I'VE GOT THE RESOLUTION --

20 MEMBER FRAZEE: RESOLUTION 98-262.

21 CHAIRMAN PENNINGTON: YOU'RE RIGHT, 98-262.
22 OKAY. IF THERE'S NO FURTHER DISCUSSION WILL THE
23 SECRETARY CALL THE ROLL?

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1 THE SECRETARY: BOARD MEMBER EATON?

2 MEMBER EATON: AYE.

3 THE SECRETARY: FRAZEE?

4 MEMBER FRAZEE: AYE.

5 THE SECRETARY: JONES?

6 MEMBER JONES: AYE.

7 THE SECRETARY: CHAIRMAN PENNINGTON?

8 CHAIRMAN PENNINGTON: AYE.

9 MOTION CARRIES.

10 AGENDA ITEM NO. 7: REPORT ON THE STATUS OF THE

11 21ST CENTURY POLICY DEVELOPMENT PROCESS

12 (ORAL PRESENTATION)

13 CHAIRMAN PENNINGTON: WE'LL NOW MOVE TO ITEM
14 NO. 7. ITEM NO. 7 IS REPORT ON THE STATUS OF THE
15 21ST POLICY DEVELOPMENT PROCESS. THIS IS AN ORAL
16 PRESENTATION BY BOARD MEMBER EATON.

17 MEMBER EATON: THANK YOU, MR. CHAIR. I STAND
18 BEFORE YOU TODAY FOR TWO REASONS. ONE, I SPILLED
19 COFFEE ON MY SHIRT AND, THEREFORE, I DON'T WANT TO
20 SHOW THE PUBLIC. TWO, AS PART OF THE GOALS -- AND,
21 BESIDES, I LIKE TO ONCE IN A WHILE LET MR. CUPPS
22 OPERATE BEHIND MY BACK INSTEAD OF BEFORE ME.

23 BUT, MOST IMPORTANTLY, PROBABLY THE

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1 REASON I STAND BEFORE YOU TODAY IS THAT ONE OF THE
2 GOALS, PERSONAL GOALS -- AND I SPEAK FOR MYSELF, AND I
3 THINK MEMBER JONES AS WELL -- IS THAT HOPEFULLY BY THE
4 TIME THIS PROCESS IS DONE, BOTH HE AND I WILL BE ABLE
5 TO PRESENT A POWER POINT PRESENTATION TO THE BOARD.
6 SO, WE'RE TRYING TO GET USED TO THAT TODAY.

7 AS MANY OF YOU HAVE HEARD IN VARIOUS
8 FORUMS, THE BOARD IN ITS JUNE MEETING DID APPROVE A
9 CONTRACT TO GO FORWARD WITH A STEERING COMMITTEE, AS
10 WELL AS TO LOOK TOWARDS A 21ST CENTURY POLICY
11 DEVELOPMENT PROJECT, WHICH IS A PROJECT OF THE BOARD.
12 WITH THAT CONTRACT IN PLACE, THE WORK HAS BEGUN. AND
13 TODAY I BRING YOU A SHORT UPDATE ON OUR PROGRESS.

14 I CAN ASSURE YOU THAT ONE OF THE MOST
15 PLEASING THINGS, AT LEAST TO MEMBERS OF THE STEERING
16 COMMITTEE -- WHICH CONSISTS OF MEMBER JONES, MYSELF,
17 MR. CHANDLER, MR. SMITH, MS. PEDERSEN, MS. PACKARD,
18 MS. BERTRAM, AND MR. FRITH -- HAS BEEN THE FACT THAT
19 WE HAVE CONSISTENTLY COLLABORATED AS A GROUP AND AT
20 THE SAME TIME HAVE NOT BEEN AFRAID TO CHALLENGE ONE
21 ANOTHER IN TERMS OF WHAT IS THE BEST WAY TO MOVE
22 FORWARD IN ORDER TO ACCOMPLISH WHAT WE HOPE THE
23 PROJECT WILL BE.

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1 I THINK THE IMPORTANT THING TO STRESS IS
2 THE FACT THAT THIS STEERING COMMITTEE IS A GUIDANCE
3 COMMITTEE AS OPPOSED TO A POLICY-SETTER. AND I THINK
4 THAT WAS FIRST AND FOREMOST UNDERSTOOD BY THE STEERING
5 COMMITTEE. AND, WITH THAT IN MIND, WE HAVE NOT BEEN
6 AFRAID TO COME UP WITH THE BEST PRODUCT, IRRESPECTIVE
7 OF WHOSE PRODUCT THAT HAPPENED TO BE.

8 ONE OF THE FIRST THINGS THAT WE FELT WAS
9 EXTREMELY IMPORTANT WAS BOTH AN INTERNAL AS WELL AS AN
10 EXTERNAL INPUT AS TO WHAT ACTUALLY THE PROJECT AND THE
11 OUTCOMES ACTUALLY SHOULD BE.

12 AND WITH THAT IN MIND MEMBER JONES AND
13 MYSELF -- WE CALL OURSELVES THE TRAVELING WILLBURYS, I
14 BELIEVE -- WE HAVE GONE TO COUNTLESS MEETINGS AND WILL
15 CONTINUE TO DO SO, INCLUDING THE LEA'S MEETING UP IN
16 GRENELBACH IN THE MONTH OF AUGUST, AS WELL AS OTHERS,
17 TO TRY AND KEEP THEM INFORMED OF OUR WORK.

18 IN ADDITION, WE HELD SOME BROWN-BAG
19 SESSIONS WITH STAFF, WHICH WAS ATTENDED BY IN EXCESS
20 OF OVER 20 PERCENT OF THE STAFF. YOU KNOW, SOME
21 CYNICS, SOME OPTIMISTS, SOME REALISTS. AND ALL OF
22 THOSE IDEAS HAVE BEEN LISTENED TO AND INCORPORATED IN
23 SOME FASHION.

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1 IN FACT, ONE OF THE EARLY IDEAS OF THE
2 FACT THAT WE SHOULDN'T SEGREGATE THESE BROWN BAGS BY
3 DIVISION, IN FACT, WAS INCORPORATED. AND ALTHOUGH
4 IT'S A SMALL STEP, I THINK THAT THIS WHOLE PROCESS IS
5 GOING TO BE ONE OF BUILDING CONFIDENCE NOT ONLY IN THE
6 PROCESS, BUT IN THE END RESULT.

7 IN ADDITION, WE'VE GOTTEN UP BOARD NET.
8 AND AS WELL FOR THOSE MEMBERS IN THE AUDIENCE, YOU
9 MAY SEE AS YOU WALK AROUND THE BUILDING THESE FLIP
10 CHARTS IN VARIOUS AREAS. THOSE ARE GOING TO BE FOR
11 THE STAFF TO ANONYMOUSLY, IF THEY SO CHOOSE, TO DRAW
12 PICTURES OR WRITE DOWN SUGGESTIONS OR TRENDS OR
13 INFORMATION THAT THEY FEEL AS TO WHERE WE SHOULD GO.

14 WITH THOSE IN PLACE, WE'VE NOW SET OFF
15 TO DO THE EXTERNAL STAKEHOLDER INPUT, AND WE'VE DONE
16 SOME WEB SITE WORK AS WELL AS CHAT ROOM DISCUSSION
17 GROUP TO EXPRESS THE ITEMS, DEVELOPMENT OF THE POLICY
18 IN THE YEAR 2000 AND BEYOND.

19 BUT, MOST IMPORTANTLY, I THINK THE WORK
20 REALLY IS GOING TO INVOLVE WHAT WE HOPE TO BE THE
21 ISSUES CONFERENCE, WHICH HAS BEEN TENTATIVELY SET FOR
22 MID OCTOBER IN SOUTHERN CALIFORNIA.

23 WE'RE IN DISCUSSIONS NOW WITH A NUMBER

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1 OF SPEAKERS, NATIONALLY-RENOWNED SPEAKERS, ON TRENDS
2 IN THE WASTE INDUSTRY, AS WELL AS PERHAPS SOME GIANTS
3 WITHIN THE INDUSTRY, TO GIVE US SOME OF THEIR WISDOM
4 AND, HOPEFULLY, SOME OF THEIR INSIGHT AS TO WHERE THEY
5 THINK THINGS WILL GO.

6 IN ADDITION, ONE OF THE THINGS THAT WILL
7 EVENTUALLY TAKE PLACE FROM THIS CONFERENCE WILL THEN
8 BE A FUTURE CONFERENCE WHERE WE'LL START TO REFINE AND
9 DEFINE WHAT, HOPEFULLY, WILL BE SOME OF THE ISSUES
10 THAT COME BEFORE THE BOARD.

11 I THINK LATER ON IN THE MEETING TODAY WE
12 WILL BE GIVEN ANOTHER OPPORTUNITY, HOPEFULLY, TO EVEN
13 COLLABORATE MORE FULLY AS COLLEAGUES, AS WELL AS,
14 PERHAPS, WITH THE INTERNAL AND EXTERNAL STAFFS AND
15 STAKEHOLDER IN THIS PROCESS.

16 I ALSO BELIEVE THAT ONE OF THE THINGS
17 THAT THIS CONFERENCE DOES HOLD FOR US IS THAT IT'S AN
18 EVOLVING PROCESS. YOU KNOW, THIS IS JUST NOT ONE OF
19 THOSE THINGS WHERE YOU'RE GOING TO SAY HERE'S WHAT THE
20 FUTURE'S GOING TO BE, AND YOU PUT IT ON THE SHELF, AND
21 YOU LOOK AND YOU SAY, "GOD, WEREN'T WE RIGHT" AND WE
22 LOOK IN THE CRYSTAL BALL.

23 I THINK THE ONE THING THAT WE HAVE

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1 LEARNED IS THAT IT'S A VERY FLUID PROCESS. SO, WHAT
2 WE WILL EVENTUALLY BRING TO THE BOARD AND TO THE
3 PUBLIC WHEN THE WORK IS COMPLETE, IN A RELATIVELY
4 SHORT TIME FRAME, WILL BE THAT SNAPSHOT IN TIME. AND
5 I THINK THAT WILL GIVE US A GREAT SPRINGBOARD FOR THE
6 FUTURE.

7 I ALSO WAS REMISS IN LEAVING OUT MS.
8 TRACEY HARPER, WHO'S ALSO -- WORK HAS BEEN EXTREMELY
9 VALUABLE AND HELPFUL, ESPECIALLY IN THE ABSENCE OF MS.
10 PACKARD WHO HAD A WELL-DESERVED VACATION.

11 I WOULD ALSO TURN IT OVER TO MEMBER
12 JONES RIGHT NOW, SINCE HE FINALLY -- HE SET ME UP FOR
13 ALL OF YOU IN THE AUDIENCE. HE HAS ALWAYS GONE FIRST
14 AT -- WHETHER IT BE THE BROWN BAGS OR THE STAFF
15 LUNCHEONS, OR WHAT HAVE YOU, AND THIS MORNING AS I
16 WALKED IN HE SAW THE STAIN ON MY SHIRT AND HE SAID,
17 YOU KNOW, I THINK IT'S TIME YOU GOT UP FIRST. AND, SO
18 I'LL LET HIM CLEAN UP AFTER THE ELEPHANT.

19 MEMBER JONES: THANK'S, MEMBER EATON.

20 MEMBER EATON'S RIGHT, THIS HAS BEEN A
21 GREAT PROCESS SO FAR, JUST PUTTING THIS TOGETHER.
22 THIS HAS BEEN A GOOD GROUP.

23 WE'RE GOING TO NEED INVOLVEMENT FROM

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1 EVERY SECTOR TO BRING FORWARD ISSUES. WE HAVE HAD --
2 THE RESULTS OF THE BROWN BAGS THAT WE HAVE WITH STAFF
3 WERE PRETTY ILLUMINATING IN THAT OUR FACILITATOR OF
4 THIS PROJECT, OUR CONSULTANT FOR THIS PROJECT, THE
5 RESULTS GROUP, MICHAEL WRIGHT, CAME IN AND WORKED WITH
6 DANNY AND I THAT DAY, AND THE STAFF THAT PARTICIPATED
7 BROKE THEM INTO GROUPS TO JUST TALK ABOUT ISSUES,
8 JUST DISCUSS ABOUT THE ISSUES THAT YOU SEE.

9 AND THE STAFF'S IN A UNIQUE POSITION,
10 BECAUSE THEY SEE THESE THINGS EVERY DAY. PEOPLE ARE
11 TALKING TO THEM ABOUT THEIR PROBLEMS, THEIR ISSUES,
12 THEIR BARRIERS. AND THAT'S WHAT WE'RE TALKING ABOUT
13 IN THE 21ST CENTURY. WHAT ARE THE BARRIERS? WHAT ARE
14 THE THINGS WE HAVE TO LOOK TOWARDS?

15 AND I THINK WE HAVE TO HAVE AN OPEN
16 MIND. WE'VE GOT TO TRY TO STAY WITHIN THE BOX AS FAR
17 AS WHAT OUR MANDATES ARE, AND GO OUTSIDE OF THE BOX AS
18 TO HOW DO WE GET THERE AND WHAT DOES THE FUTURE LOOK
19 LIKE. I MEAN, THAT'S -- THIS IS NOT GOING TO BE AN
20 EASY TASK.

21 STEVEN GUENA'S SITTING IN THE AUDIENCE.
22 HE AND I WERE IN WASHINGTON, D.C., AT THEIR 21ST
23 CENTURY THING, AND I DON'T WANT TO -- I'LL TELL YOU,

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1 I'VE SAID THIS IN PUBLIC MEETINGS, I WAS DISAPPOINTED
2 FROM THE STANDPOINT THAT I WAS LOOKING FOR NEW AREAS
3 FOR OUR MARKET GROWTH, AND THEY WERE TRYING TO FIGURE
4 OUT WHERE TO PUT THE BIN.

5 SO, WE ARE FAR AHEAD OF THE REST OF THE
6 UNITED STATES, ANYWAY, ON WHAT WE'RE DOING, AND WE
7 NEED THAT INPUT.

8 THE FUTURE'S -- LIKE DANNY SAID, WE ARE
9 -- WE'RE THINKING THAT IT'S GOING TO BE THE MIDDLE OF
10 OCTOBER. WE'VE GOT SOME CONFLICTS WITH SPEAKERS. WE
11 DON'T KNOW HOW WE'RE GOING TO GET THAT WORKED OUT AS
12 FAR AS WHAT WE'RE GOING TO DO, BUT IT WILL BE IN
13 SOUTHERN CALIFORNIA JUST BECAUSE THERE ARE SO MANY
14 PEOPLE IN SOUTHERN CALIFORNIA. AND THE FUTURES
15 CONFERENCE WILL BE HELD IN SACRAMENTO.

16 WE NEED YOU TO PARTICIPATE. WE NEED YOU
17 TO BE THINKING ABOUT IT. AND EVERY GROUP WILL BE
18 INVITED NO MATTER WHAT THEIR OPINION, WHAT THEIR POINT
19 OF VIEW. THIS IS A COLLABORATIVE PROCESS. WE MAY NOT
20 GET A HUNDRED PERCENT CONSENSUS, BUT WE ARE DEFINITELY
21 GOING TO LISTEN TO VIEWS IN AN UNFILTERED MANNER TO GO
22 FORWARD.

23 SO, I APPRECIATE THE EFFORT. AND WE'LL

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1 JUST KEEP BANGING AWAY.

2 CHAIRMAN PENNINGTON: THANK YOU, MEMBER
3 EATON, AND THANK YOU, MEMBER JONES.

4 WE'RE GOING TO TAKE ABOUT A FIVE-MINUTE
5 BREAK HERE, SO-- AND WHEN WE COME BACK, WE'RE GOING TO
6 TAKE UP -- TO ACCOMMODATE OUR PUBLIC AFFAIRS OFFICE,
7 WE'RE GOING TO TAKE UP ITEM 26, WHICH IS THE BIENNIAL
8 REVIEWS.

9 (OFF THE RECORD; BRIEF RECESS.)

10 CHAIRMAN PENNINGTON: OKAY, FOLKS, WE'RE
11 READY TO COME BACK.

12 AGENDA ITEM NO. 26: CONSIDERATION OF STAFF
13 RECOMMENDATION ON THE BIENNIAL REVIEW FINDINGS FOR
14 THE SOURCE REDUCTION AND RECYCLING ELEMENT FOR
15 THE FOLLOWING JURISDICTIONS [AS LISTED IN AGENDA]

16 CHAIRMAN PENNINGTON: WE'RE GOING TO TAKE
17 ITEM 26 OUT OF ORDER TO ACCOMMODATE OUR PUBLIC AFFAIRS
18 OFFICE. SO, WE'LL MOVE TO ITEM 26, WHICH IS
19 CONSIDERATION OF STAFF RECOMMENDATION ON THE BIENNIAL
20 REVIEW FINDINGS FOR THE SOURCE REDUCTION AND RECYCLING
21 ELEMENTS FOR JURISDICTIONS IN CALAVERAS, KERN, ORANGE,
22 RIVERSIDE, SAN JOAQUIN, VENTURA, AND YOLO COUNTIES.

23 JUDY FRIEDMAN.

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1 MS. FRIEDMAN: YES. GOOD MORNING, CHAIRMAN
2 PENNINGTON AND BOARD MEMBERS. I'M JUST GOING TO TURN
3 THIS OVER TO CATHERINE CARDOZO WHO WILL MAKE THE
4 PRESENTATION FOR STAFF.

5 BUT, BEFORE I DO I JUST WANTED TO LET
6 YOU KNOW THAT WITH THIS ACTION THIS WILL BE '95
7 BIENNIALS THAT HAVE BEEN COMPLETED. SO, INCLUDING THE
8 SET, WHICH IS A SIGNIFICANT NUMBER. AND, WITH THAT,
9 I'LL TURN IT OVER TO CATHERINE.

10 MS. CARDOZO: THANKS, JUDY. GOOD MORNING,
11 CHAIRMAN PENNINGTON AND BOARD MEMBERS. I AM CATHERINE
12 CARDOZO WITH THE OFFICE OF LOCAL ASSISTANCE, THE NEW
13 CENTRAL SECTION. AND I'M HAPPY TO PRESENT TO YOU
14 TODAY 32 MORE JURISDICTIONS FROM SEVEN COUNTIES THAT
15 HAVE DEMONSTRATED MEETING OR EXCEEDING THE 1995 GOAL
16 OF 25 PERCENT IN BOTH 1995 AND '96.

17 THESE FINDINGS ARE THE RESULT OF STAFF'S
18 REVIEW AND ANALYSIS OF THESE JURISDICTIONS AND THEIR
19 1995 AND 1996 ANNUAL REPORTS.

20 CLARIFICATION AND VERIFICATION OF
21 PROGRAM IMPLEMENTATION WAS CONDUCTED BY NUMEROUS PHONE
22 CALLS AND CORRESPONDENCE WITH THE JURISDICTIONS AND
23 CHECKING PERTINENT DIVERSION FACILITY-RELATED

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1 DATABASES.

2 THESE JURISDICTIONS HAVE IMPLEMENTED AND
3 CONTINUE TO IMPLEMENT NUMEROUS SOURCE REDUCTION
4 RECYCLING, COMPOSTING, SPECIAL WASTE, AND EDUCATION
5 PROGRAMS TO HELP THEM REACH THE 25 AND 50 PERCENT
6 GOALS. THEIR SUCCESS IS THE RESULT OF COOPERATIVE
7 EFFORTS BY THE CITIES AND COUNTIES AND THEIR
8 RESIDENTS, SCHOOLS, AND THEIR COMMERCIAL SECTORS, AS
9 WELL AS THE WASTE MANAGEMENT INDUSTRY AND THE
10 RECYCLING INDUSTRY.

11 I WOULD NOW LIKE TO ACKNOWLEDGE THESE
12 JURISDICTIONS' SUCCESS BY READING EACH INTO THE
13 RECORD. IN CALAVERAS COUNTY WE HAVE ANGELES CAMP AND
14 CALAVERAS COUNTY UNINCORPORATED. IN KERN COUNTY WE
15 HAVE BAKERSFIELD, CALIFORNIA CITY, DELANO, RIDGECREST,
16 TAFT, TEHACHAPI, AND WASCO. IN ORANGE COUNTY, LAGUNA
17 NIGUEL, SANTA ANA, SEAL BEACH, WESTMINSTER, AND YORBA
18 LINDA. IN RIVERSIDE COUNTY WE HAVE BANNING, CANYON
19 LAKE, CORONA, INDIAN WELLS, INDIO, LA QUINTA, MORENO
20 VALLEY, NORCO, PALM SPRINGS, RANCHO MIRAGE, RIVERSIDE,
21 AND TEMECULA. IN SAN JOAQUIN COUNTY WE HAVE ESCALON,
22 LATHROP, AND LODI. IN VENTURA COUNTY, PORT HUENEME.
23 AND IN YOLO COUNTY, DAVIS AND WINTERS.

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1 THAT CONCLUDES MY PRESENTATION. DO YOU
2 HAVE ANY QUESTIONS?

3 CHAIRMAN PENNINGTON: QUESTIONS?

4 MEMBER JONES: NO, JUST A COMMENT THAT I WAS
5 GLAD TO SEE THIS ITEM READ INTO THE RECORD. I THINK
6 THAT THE EFFORT THAT CITIES, COUNTIES AND CITIZENS
7 HAVE DONE TO GET TO THE 25 PERCENT IS CRUCIAL AND AT
8 LEAST DESERVES ACKNOWLEDGEMENT AS A SEPARATE ITEM.

9 SO, IF THERE AREN'T MORE COMMENTS, I'LL
10 MAKE A MOTION TO ADOPT RESOLUTION 98-245,
11 ACKNOWLEDGING ALL THOSE CITIES AND COUNTIES THAT YOU
12 JUST READ INTO THE RECORD.

13 MEMBER EATON: AND I'LL SECOND THAT MOTION.

14 CHAIRMAN PENNINGTON: OKAY. AND IF THERE'S
15 NO FURTHER DISCUSSION, WILL THE SECRETARY CALL THE
16 ROLL?

17 THE SECRETARY: BOARD MEMBER EATON?

18 MEMBER EATON: AYE.

19 THE SECRETARY: FRAZEE?

20 MEMBER FRAZEE: AYE.

21 THE SECRETARY: JONES?

22 MEMBER JONES: AYE.

23 THE SECRETARY: CHAIRMAN PENNINGTON?

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1 CHAIRMAN PENNINGTON: AYE.

2 THE MOTION CARRIES. THANK YOU.

3

4 AGENDA ITEM NO. 8-B: CONSIDERATION OF STATE

5 LEGISLATION - AB 2521 (WAYNE)

6 CHAIRMAN PENNINGTON: WE'LL NOW MOVE TO ITEM
7 NO. 8, CONSIDERATION OF STATE LEGISLATION. MS. PATTY
8 ZWARTS.

9 MS. ZWARTS: GOOD MORNING, CHAIRMAN
10 PENNINGTON AND MEMBERS.

11 YOU HAVE ONE PIECE OF LEGISLATION FOR
12 YOUR CONSIDERATION TODAY, AND THAT IS ASSEMBLY BILL
13 2521 BY SENATOR WAYNE. THIS MEASURE IS SPONSORED BY
14 THE CALIFORNIA ASSOCIATION OF ENVIRONMENTAL HEALTH
15 ADMINISTERS.

16 THIS BILL WOULD PERMIT LEAS TO RECOVER
17 COSTS FOR DEFENDING THEMSELVES AGAINST APPEALS OF
18 DENIALS OF A SOLID WASTE PERMIT WHEN THEY PREVAIL. IT
19 ALSO PROVIDES THAT A CEASE AND DESIST ORDER ISSUED BY
20 THE LEA AGAINST A SOLID WASTE FACILITY OPERATOR WOULD
21 REMAIN IN EFFECT WHILE AN APPEAL IS PENDING UNDER
22 CERTAIN CONDITIONS AND MAKES OTHER CHANGES.

23 THIS BILL IS PRESENTLY ON THE SENATE

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1 FLOOR, THIRD READING BILL, AND THE COMMITTEE'S
2 RECOMMENDATION EARLIER THIS MONTH ON THIS BILL IS
3 SUPPORT IF AMENDED.

4 TWO THINGS HAVE HAPPENED SINCE THE
5 COMMITTEE'S CONSIDERATION OF THIS BILL THAT I'D LIKE
6 TO DRAW TO THE BOARD'S ATTENTION.

7 ONE, THE BILL WAS AMENDED ON JULY 21ST
8 TO, IN EFFECT, TAKE THE COMMITTEE'S RECOMMENDED
9 AMENDMENT, SO THE BOARD MAY WISH TO RECONSIDER THE
10 RECOMMENDATION OF SUPPORT IF AMENDED TO SUPPORT
11 CONSISTENT WITH THE COMMITTEE'S EARLIER
12 RECOMMENDATION.

13 A SECOND THING HAS OCCURRED, IN THAT THE
14 BOARD'S LEGISLATIVE STAFF HAVE DISCOVERED A SECOND
15 TECHNICAL ERROR SIMILAR TO THE FIRST ONE THAT WAS
16 PROPOSED. WE HAVE INFORMALLY MENTIONED THAT TO THE
17 AUTHOR'S OFFICE, AND THE SPONSOR, AND THEY HAVE
18 INDICATED TO US THAT THEY WILL FIX THAT AT A LATER
19 DATE. THAT'S ESSENTIALLY CHANGING AN "AND" TO AN
20 "OR," SO WE FOUND A SECOND ONE FOR THEM.

21 AND, THAT CONCLUDES MY PRESENTATION.
22 I'D BE OPEN TO ANY QUESTIONS ON THE MEASURE.

23 CHAIRMAN PENNINGTON: QUESTIONS?

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1 MEMBER EATON: WOULD THE SECOND TECHNICAL
2 "AND" TO "OR" BE AN IMPACT IF WE CHANGED OUR POSITION
3 TO SUPPORT? OR, SHOULD THE POSITION STILL BE
4 SUPPORTED IF AMENDED BECAUSE OF THAT "AND" OR "OR"?

5 MS. ZWARTS: WELL, IT IS TRULY TECHNICAL.
6 AND, I THINK IT WOULD PROBABLY BE APPROPRIATE TO
7 SUPPORT IT. THEY HAVE INDICATED THEY PLAN TO REPAIR
8 THAT.

9 MEMBER EATON: AND THE AMENDMENT THAT MR.
10 FRAZEE WAS SEEKING?

11 MS. ZWARTS: HAS BEEN AMENDED INTO THE BILL
12 IN THE JULY 21ST VERSION. SO, THAT AMENDMENT IS IN
13 PRINT.

14 CHAIRMAN PENNINGTON: ANY ADDITIONAL
15 QUESTIONS?

16 MEMBER JONES: JUST ONE QUESTION.

17 CHAIRMAN PENNINGTON: MEMBER JONES.

18 MEMBER JONES: IF AN OPERATOR COMES TO US
19 UNDER AB 59, AND IT'S NOT UPHELD, THEN THIS WOULD PAY
20 FOR THEIR -- PAY FOR THE LEA'S EXPENSES TO DEFEND
21 THEIR ACTION?

22 MS. ZWARTS: YES, UNDER CONDITIONS THAT --
23 LET'S SEE -- THAT THE PANEL DEEMS THE APPEAL TO BE

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1 FRIVOLOUS.

2 MEMBER JONES: OKAY. WHAT IF THE OPERATOR
3 PREVAILS, DOES THE LEA PAY TO THEM?

4 MS. ZWARTS: I'M NOT SURE IF IT'S CLEAR ON
5 THAT POINT. I BELIEVE SO.

6 MEMBER JONES: I JUST KIND OF WONDERED, YOU
7 KNOW.

8 CHAIRMAN PENNINGTON: MR. FRAZEE?

9 MEMBER FRAZEE: YES. MY UNDERSTANDING IS
10 THAT IF -- IN THE CIRCUMSTANCE THAT MEMBER JONES
11 MENTIONED, THERE WOULD STILL HAVE TO BE A FINDING OF
12 FRIVOLOUS, IT WOULDN'T JUST AUTOMATICALLY TRIGGER A
13 PAYMENT BY THE --

14 MS. ZWARTS: NO, NO, THERE WOULD HAVE TO BE A
15 FINDING.

16 MEMBER FRAZEE: -- APPELLANT. THERE WOULD
17 HAVE TO BE AN ADDITIONAL FINDING OF FRIVOLOUS IF THEY
18 WERE TO DO THAT.

19 MEMBER EATON: OH, OKAY, I DON'T HAVE A
20 PROBLEM WITH THAT THEN.

21 CHAIRMAN PENNINGTON: THE BOARD WOULD DO
22 THAT?

23 MEMBER FRAZEE: WELL, THE LOCAL --

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1 MS. ZWARTS: HEARING PANEL.

2 MEMBER FRAZEE: -- HEARING PANEL WOULD DO
3 THAT. AND I ASSUME THAT, THEN, IS APPEALABLE TO THE
4 BOARD, IS IT NOT?

5 MS. ZWARTS: INDEED THERE IS. IF THERE IS A
6 DISAGREEMENT WITH THAT RULING, IT CERTAINLY COULD BE
7 APPEALED TO THE BOARD.

8 MEMBER FRAZEE: OKAY.

9 MEMBER EATON: ON THE ITEM OF IT BEING
10 FRIVOLOUS.

11 MS. ZWARTS: FRIVOLOUS.

12 MEMBER EATON: RIGHT.

13 MS. ZWARTS: OR ASSERTIONS THAT IT'S NOT
14 FRIVOLOUS.

15 MEMBER EATON: RIGHT.

16 CHAIRMAN PENNINGTON: IF THERE'S NO FURTHER
17 QUESTIONS, I'LL ENTERTAIN A MOTION.

18 MEMBER EATON: MR. CHAIR, I'LL MOVE THAT WE
19 ADOPT A SUPPORT POSITION IN REGARDS TO AB 2521.

20 CHAIRMAN PENNINGTON: I NEED A SECOND, FOLKS.

21 MEMBER FRAZEE: I'LL SECOND.

22 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED
23 AND SECONDED. IF THERE'S NO FURTHER DISCUSSION, WILL

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1 THE SECRETARY CALL THE ROLL?

2 THE SECRETARY: BOARD MEMBER EATON?

3 MEMBER EATON: AYE.

4 THE SECRETARY: FRAZEE?

5 MEMBER FRAZEE: AYE.

6 THE SECRETARY: JONES?

7 MEMBER JONES: AYE.

8 CHAIRMAN PENNINGTON: CHAIRMAN PENNINGTON?

9 CHAIRMAN PENNINGTON: AYE.

10 THE MOTION CARRIES.

11 AGENDA ITEM NO. 11: CONSIDERATION OF THE WASTE

12 MANAGEMENT INC. ALLOWANCE TO CONTINUE USING NGIC

13 INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCES FOR

14 CLOSURE AND POSTCLOSURE MAINTENANCE

15 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM 11,

16 CONSIDERATION OF THE WASTE MANAGEMENT INC. ALLOWANCE

17 TO CONTINUE USING NGIC INSURANCE TO DEMONSTRATE

18 FINANCIAL ASSURANCES FOR CLOSURE AND POSTCLOSURE

19 MAINTENANCE. DOROTHY RICE.

20 MS. RICE: GOOD MORNING, MR. CHAIRMAN AND

21 MEMBERS. RICHARD CASTLE WILL MAKE A STAFF

22 PRESENTATION AND MR. CHANDLER WILL TAKE PART IN THE

23 PRESENTATION AS WELL.

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1 MR. CASTLE: GOOD MORNING, BOARD MEMBERS, MY
2 NAME IS RICHARD CASTLE FROM THE FINANCIAL ASSURANCES
3 SECTION, AND I WANTED TO GIVE YOU A BRIEF OUTLINE OF
4 WHERE WE'VE BEEN WITH WASTE MANAGEMENT.

5 WASTE MANAGEMENT FIRST SUBMITTED A
6 CERTIFICATE OF INSURANCE FOR CLOSURE AND POSTCLOSURE
7 MAINTENANCE FOR THEIR LANDFILLS LOCATED IN CALIFORNIA
8 IN MARCH OF '93. SINCE THEN THEY HAVE DEMONSTRATED
9 FINANCIAL ASSURANCES FOR ALL THEIR CALIFORNIA
10 LANDFILLS WITH CERTIFICATES FROM NATIONAL GUARANTEE
11 INSURANCE CORPORATION. THE BOARD ACCEPTED THE
12 CERTIFICATES BASED ON THE FEDERAL REQUIREMENTS,
13 BECAUSE THE BOARD HAD NOT ADOPTED REQUIREMENTS OF
14 THEIR OWN.

15 IN 1993, AB 1220 REQUIRED THE BOARD TO
16 OVERHAUL THE FINANCIAL ASSURANCE REGULATIONS AND
17 CONSOLIDATE THEM WITH THE REGULATIONS OF THE STATE AND
18 REGIONAL WATER QUALITY CONTROL BOARDS.

19 THE TITLE 27 REGULATIONS -- WHICH WAS
20 THE PACKAGE THAT CAME FROM AB 1220 -- WERE COMPLETED
21 AND EFFECTIVE IN JULY OF 1997. THE INSURANCE
22 DEMONSTRATIONS ALLOWED IN THESE REGULATIONS REQUIRE
23 CALIFORNIA DEPARTMENT OF INSURANCE APPROVAL.

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1 SINCE FEBRUARY OF 1997, WHEN WASTE
2 MANAGEMENT, INC., REQUESTED CLARIFICATION OF THE
3 PROPOSED TITLE 27 REGULATIONS REGARDING THEIR
4 CONTINUED ABILITY TO UTILIZE NGIC -- WHICH IS THEIR
5 CAPTIVE INSURER -- AS THE PROVIDER OF FINANCIAL
6 ASSURANCE DEMONSTRATIONS FOR WASTE MANAGEMENT'S
7 CALIFORNIA FACILITIES, PERMITTING AND ENFORCEMENT
8 STAFF ALLOWED WASTE MANAGEMENT THROUGH THE END OF 1997
9 TO GAIN ACCEPTANCE OF NGIC OR PROVIDE AN ALTERNATIVE
10 FINANCIAL ASSURANCE DEMONSTRATION. THE ACCEPTANCE
11 WOULD BE THROUGH THE CALIFORNIA DEPARTMENT OF
12 INSURANCE.

13 THE AGENDA ITEM LAYS OUT THE CHRONOLOGY
14 OF CORRESPONDENCE AND MEETINGS DURING 1997, WHEREIN
15 STAFF ATTEMPTED TO RESOLVE THE SITUATION WITH NGIC AND
16 WASTE MANAGEMENT.

17 ON SEPTEMBER 18TH, '97, THE CALIFORNIA
18 DEPARTMENT OF INSURANCE LEGAL COUNSEL CONFIRMED THAT
19 THE BOARD'S CURRENT REGULATIONS ON THIS MATTER WERE --
20 WERE AND ARE THE APPROPRIATE MEANS BY WHICH THE
21 DEPARTMENT OF INSURANCE IS ABLE TO REVIEW INSURERS
22 OFFERING COVERAGE FOR ANY OF THE BOARD'S REQUIREMENTS.
23

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1 AND, THAT WAS AN OUTCOME OF A MEETING
2 THAT WE HAD WITH THE LEGAL OFFICE OF THE DEPARTMENT OF
3 INSURANCE, ABOUT WHETHER OR NOT WE COULD JUST CONTRACT
4 TO THEM. I'VE ASKED FOR FURTHER CLARIFICATION IN CASE
5 ANYTHING MAY HAVE CHANGED IN THE PAST. I HAVE NOT
6 RECEIVED A RESPONSE ON THAT YET.

7 ON NOVEMBER 14TH, '97, WASTE MANAGEMENT
8 WAS SENT NOTICE THAT THE ALLOWANCE TO USE NGIC
9 INSURANCE WAS WITHDRAWN. THAT NOTICE CAME FROM THE
10 PERMITTING ENFORCEMENT DIVISION. WASTE MANAGEMENT WAS
11 ALLOWED 60 DAYS AFTER RECEIPT OF THAT NOTICE TO
12 PROVIDE ACCEPTABLE FINANCIAL ASSURANCE DEMONSTRATIONS.

13 TOWARD THE END OF THE 60 DAYS THE BOARD
14 HEARD AN ITEM ON THAT, ON JANUARY 28TH, 1998. AND,
15 THE BOARD HEARD THE WASTE MANAGEMENT REQUEST FOR
16 ADDITIONAL TIME TO GAIN APPROVAL FROM THE CALIFORNIA
17 DEPARTMENT OF INSURANCE. THE BOARD GRANTED WASTE
18 MANAGEMENT 180 DAYS TO PURSUE THAT APPROVAL OF
19 NATIONAL GUARANTEE INSURANCE. THIS BEGAN NGIC'S
20 SECOND ATTEMPT TO GAIN DEPARTMENT OF INSURANCE
21 APPROVAL.

22 ON JULY 6TH, 1998, ASSEMBLY BILL NO.
23 715 WAS AMENDED TO INCLUDE PROVISIONS REQUIRING THE

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1 BOARD TO REVIEW AND APPROVE CAPTIVE INSURANCE
2 COMPANIES OF SOLID WASTE FACILITY OPERATORS, IN LIEU
3 OF THE INSURERS MEETING REQUIREMENTS DEVELOPED BY THE
4 CALIFORNIA DEPARTMENT OF INSURANCE. THE AB 715
5 LEGISLATION IS DUE TO NGIC'S FAILURE TO MEET THE
6 REQUIREMENTS OF THE DEPARTMENT OF INSURANCE.

7 AND THEN, FINALLY, AT THE JULY 16TH P&E
8 COMMITTEE MEETING THE COMMITTEE FORWARDED THIS ITEM TO
9 THE BOARD TODAY WITH THE RECOMMENDATION THAT WASTE
10 MANAGEMENT BE ALLOWED A SIX-MONTH EXTENSION TO
11 CONTINUE UTILIZING NGIC WITH REPORTS REGARDING THE
12 STATUS OF AB 715 ON TWO-MONTH INTERVALS AND THAT ANY
13 NEW PERMIT ACTIONS THAT REQUIRE ADDITIONAL FINANCIAL
14 ASSURANCE COVERAGES, THAT THEY MUST -- THAT WASTE
15 MANAGEMENT MUST UTILIZE DIFFERENT FINANCIAL ASSURANCE
16 DEMONSTRATIONS THAT WOULD BE ACCEPTABLE UNDER OUR
17 CURRENT REGULATIONS.

18 IN ADDITION, STAFF WERE TO BEGIN THE
19 PROCESS OF MODIFYING THE CURRENT REGULATIONS FOR
20 CLOSURE INSURANCE.

21 AT THIS POINT RALPH WANTED TO MAYBE SAY
22 A LITTLE BIT MORE.

23 MR. CHANDLER: YEAH, JUST A FEW THOUGHTS AS -

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1 - BEFORE WE START THE DIALOGUE ON THIS ISSUE.

2 AND IT SEEMS TO ME IN PRESENTING THIS
3 ITEM, WHAT I ASKED STAFF TO DO WAS JUST SIMPLY REVIEW
4 THE HISTORY FOR THOSE MEMBERS WHO WERE NOT ON THE
5 BOARD IN 1993, WHEN STATUTE REQUIRED THAT WE OVERHAUL
6 OUR FINANCIAL ASSURANCE REGULATIONS AND CONSOLIDATE
7 THEM WITH THE REGULATIONS OF THE STATE AND REGIONAL
8 WATER QUALITY CONTROL BOARD.

9 IN ADDITION, AS YOU KNOW, THERE'S BEEN
10 QUITE A LOT OF HISTORY THAT RELATES TO THE STAFF'S
11 ONGOING DISCUSSIONS WITH WMI, BEGINNING IN EARLY 1997.

12 AND THEN, OF COURSE, AS JUST REFERENCED BY STAFF, THE
13 NOTICE OF NOVEMBER OF LAST YEAR THAT PROVIDED WMI WITH
14 THE 60 DAYS TO PROVIDE THE ACCEPTABLE FINANCIAL
15 ASSURANCE.

16 AND, IF YOU'D LIKE, I KNOW STAFF IS IN A
17 POSITION TO PROVIDE ADDITIONAL INFORMATION THAT COVERS
18 THE DIALOGUE THAT OCCURRED LAST YEAR.

19 BUT, IT STRIKES ME THAT WE'VE KIND OF
20 MOVED FROM A SITUATION WHERE WE WERE WAITING THE
21 OUTCOME OF NEGOTIATIONS WITH THE CALIFORNIA DEPARTMENT
22 OF INSURANCE AND NOW WE'VE MOVED INTO A TIMETABLE OF
23 REALLY AWAITING THE FATE OF AB 715, AND WE'LL LIKELY

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1 KNOW WHETHER OR NOT THIS BECOMES LAW WITHIN THE NEXT
2 60 DAYS.

3 AND, CERTAINLY, IF THE LEGISLATION'S
4 SUCCESSFUL, IT WILL BECOME, AS I UNDERSTAND IT,
5 EFFECTIVE JANUARY 1ST, AND PRESUMABLY REQUIRE THE
6 BOARD TO REOPEN ITS REGULATIONS GOVERNING FINANCIAL
7 ASSURANCE MECHANISMS. IF, ON THE OTHER HAND, THE
8 LEGISLATION'S NOT SUCCESSFUL, WELL, IT SEEMS TO ME
9 WE'LL BE BACK TO SQUARE ONE.

10 AND IT SEEMS THAT IT WOULD BE PRUDENT
11 THAT WHILE THE LEGISLATURE CONSIDERS AB 715, WMI USES
12 THE NEXT 60 DAYS TO SECURE ACCEPTABLE FINANCIAL
13 ASSURANCE COVERAGE, THEREBY PUTTING ALL PARTIES IN A
14 POSITION OF COMPLIANCE ON OUR EXISTING REQUIREMENTS.

15 SHOULD THE LEGISLATURE APPROVE AB 715
16 AND THE GOVERNOR SIGN IT INTO LAW, THEN WE CAN REVIEW
17 THE REQUIREMENTS OF THE LAW AND REASSESS OUR
18 REGULATIONS AND THE NEED TO REVISE THEM TO COMPLY WITH
19 THE NEW STATUTE, WHICH WOULD BE EFFECTIVE ON JANUARY
20 1ST.

21 SO, IN SUMMARY, I THINK THE STAFF HAVE
22 OUTLINED THE HISTORY, THE SIX MONTHS' OF NEGOTIATIONS
23 IN 1997, YOUR ADDITIONAL SIX MONTHS, AND NOW THE

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1 UPCOMING, IF YOU WILL, SIX MONTHS THAT WE ARE LOOKING
2 AT AS THE LEGISLATION HAS ITS FATE REVIEWED IN THE
3 LEGISLATURE.

4 HOWEVER, AS I INDICATED, I THINK IT
5 WOULD BE ONLY PRUDENT THAT, SINCE WE'LL KNOW THE FATE
6 OF THAT BILL IN -- PROBABLY IN THE NEXT 60 DAYS, THAT
7 WE AT LEAST PUT WMI ON NOTICE THAT THEY SHOULD BEGIN
8 PURSUING ALTERNATIVE MECHANISMS IN THE EVENT THAT THE
9 LEGISLATION'S NOT SUCCESSFUL. THEN WE'LL SEE ALL
10 PARTIES IN COMPLIANCE.

11 AND SO, AGAIN, THAT'S STAFF'S VIEWS ON
12 THE MATTER AT THIS POINT. AND, I OPEN IT UP FOR
13 ADDITIONAL DIALOGUE. AND I'M CERTAIN -- I'M SURE WMX
14 HAS THEIR THOUGHTS ON THE MATTER, AS WELL.

15 CHAIRMAN PENNINGTON: RIGHT. MR. WHITE WOULD
16 LIKE TO ADDRESS US. SO, CHUCK WHITE.

17 MR. WHITE: THANK YOU VERY MUCH, MR. CHAIRMAN
18 AND MEMBERS OF THE BOARD AND STAFF. I DO HAVE A
19 NUMBER OF COMMENTS I WOULD LIKE TO MAKE REGARDING OUR,
20 HOPEFULLY, CONTINUED USE OF NGIC AS A SAFE AND SECURE
21 MECHANISM FOR PROVIDING FINANCIAL ASSURANCE AT OUR
22 SOLID WASTE LANDFILLS IN CALIFORNIA.

23 WASTE MANAGEMENT CURRENTLY USES OUR

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1 CAPTIVE INSURANCE COMPANY, NGIC, TO PROVIDE FINANCIAL
2 INSURANCE FOR ITS HAZARDOUS AND SOLID WASTE FACILITY
3 OPERATIONS IN 18 STATES IN THE UNITED STATES. AND WE
4 DO THAT IN COMPLIANCE WITH STATE ENVIRONMENTAL LAWS;
5 WE DO IT IN COMPLIANCE WITH STATE INSURANCE LAWS; WE
6 DO THAT IN COMPLIANCE WITH FEDERAL RCRA, BOTH SUBTITLE
7 D AND SUBTITLE C, THE HAZARDOUS WASTE LAWS IN THOSE 18
8 STATES.

9 IN CALIFORNIA WE CURRENTLY USE NGIC FOR
10 SIX SOLID WASTE LANDFILLS AND ONE HAZARDOUS WASTE
11 LANDFILL. WE DO THIS IN COMPLIANCE WITH CALIFORNIA'S
12 HAZARDOUS WASTE REGULATORY REQUIREMENTS. WE DO THAT,
13 CURRENTLY, IN COMPLIANCE WITH CALIFORNIA INSURANCE
14 LAW. AND, WE DO IT IN COMPLIANCE WITH SOLID WASTE
15 LAW, EXCEPT AS WAS AMENDED BY YOUR REGULATIONS IN AB
16 1220 REGS THAT -- EFFECTIVE THE MIDDLE OF LAST YEAR.

17 WHICH, CONTRARY TO WHAT -- WHICH WOULD
18 OTHERWISE BE REQUIRED UNDER CALIFORNIA INSURANCE LAW,
19 IT REQUIRED A SPECIFIC TYPE OF REVIEW AND APPROVAL BY
20 THE CALIFORNIA DEPARTMENT OF INSURANCE THAT OTHERWISE
21 WOULD NOT HAVE BEEN -- IS NOT REQUIRED FOR NGIC TO
22 CONTINUE OPERATING IN CALIFORNIA.

23 WE BECAME AWARE OF THIS, AS YOUR STAFF

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1 HAVE POINTED OUT. WE SOUGHT CLARIFICATION. IN
2 JANUARY THE BOARD GAVE US AN ADDITIONAL SIX MONTHS TO
3 SEE IF WE COULD, IN FACT, SECURE THE SPECIFIC TYPE OF
4 APPROVAL THAT WAS MANDATED BY YOUR REGULATIONS THAT
5 BECAME EFFECTIVE LAST YEAR.

6 WE WORKED DILIGENTLY FOR THE LAST SIX
7 MONTHS WITH THE CALIFORNIA DEPARTMENT OF INSURANCE.
8 THEIR REVIEW WAS NOT COMPLETED UNTIL THE 13TH OF JULY,
9 JUST A COUPLE OF WEEKS AGO. AND, BELIEVE ME, I WORKED
10 AS HARD AS I CAN IMAGINE TO TRY TO GET THEM TO SPEED
11 THAT PROCESS UP AND COME TO A CONCLUSION AT THE
12 EARLIEST POSSIBLE TIME. BUT, AS IT TURNED OUT, TWO
13 WEEKS AGO WAS THE SOONEST THAT WE GOT THE ACTUAL
14 DESCRIPTION OF WHAT THE CONCLUSIONS OF THEIR REVIEW
15 AND OF THAT PROCESS WERE.

16 THE DEPARTMENT OF INSURANCE HAS WRITTEN
17 A LETTER TO US, WHICH I PROVIDED IN MY THIRD BIENNIAL
18 -- MY MONTHLY REPORT TO RALPH ON MONDAY. AND,
19 BASICALLY, THEY MADE A NUMBER OF STATEMENTS AS A
20 RESULT OF THAT.

21 THEY SAID WE WERE BOTH COOPERATIVE AND
22 DILIGENT IN SEEKING TO EXPLORE WHETHER OR NOT NGIC
23 COULD BE APPROVED BY THE CALIFORNIA DEPARTMENT OF

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1 INSURANCE.

2 THEY ARTICULATED THAT CALIFORNIA
3 DEPARTMENT OF INSURANCE REVIEW IS NOT REQUIRED BY THE
4 CALIFORNIA INSURANCE CODE, IT'S ONLY BY THE WASTE
5 BOARD'S REGULATIONS THAT REQUIRE THE DEPARTMENT OF
6 INSURANCE TO TAKE A LOOK AT THIS.

7 THEY INDICATED TO US THAT THE CALIFORNIA
8 DEPARTMENT OF INSURANCE DOES NOT HAVE A MECHANISM TO
9 APPROVE CAPTIVE INSURANCE COMPANIES LIKE NGIC UNLESS A
10 CAPTIVE INSURANCE COMPANY IS STRUCTURED TO OPERATE AS
11 IF IT WERE A COMMERCIAL INSURANCE PROVIDER TRANSACTING
12 THE BUSINESS OF INSURANCE IN CALIFORNIA.

13 AND, THEREIN LIES THE PROBLEM. WE ARE A
14 SQUARE PEG TRYING TO BE FIT INTO A ROUND HOLE OVER AT
15 THE DEPARTMENT OF INSURANCE. THE DEPARTMENT -- THE
16 CALIFORNIA INSURANCE CODE IS SPECIFICALLY SET UP TO
17 REVIEW AND APPROVE COMMERCIAL INSURANCE PROVIDERS
18 TRANSACTING SELLING INSURANCE POLICIES FOR LIFE AND
19 RISKS IN CALIFORNIA. WE DON'T DO THAT.

20 FURTHER, THE CALIFORNIA DEPARTMENT OF
21 INSURANCE HAS INDICATED TO US IN WRITING....

22 AND, I MIGHT STEP BACK FOR A SECOND. I
23 APPRECIATE MR. CASTLE'S EARLIER COMMENTS ABOUT SOME

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1 STATEMENTS MADE BY DEPARTMENT OF INSURANCE LAST YEAR,
2 BUT I HAVE NEVER SEEN THOSE IN WRITING. I DON'T KNOW
3 WHO THEY ARE ATTRIBUTED TO.

4 THEY'VE NEVER BEEN ARTICULATED TO
5 ANYBODY WITHIN WASTE MANAGEMENT OR NGIC THAT -- THAT
6 OTHER THAN WHAT WE RECEIVED RECENTLY IN WRITING IS
7 THAT NGIC MAY BE AN ACCEPTABLE MEANS OF PROVIDING
8 INSURANCE UNDER OTHER REGULATORY STATUTES AND
9 REGULATIONS LIKE SUBTITLE D, LIKE THE CALIFORNIA
10 HAZARDOUS WASTE CONTROL LAW, LIKE THE CALIFORNIA STATE
11 SOLID WASTE ACT.

12 THEY DON'T HAVE ANY OBJECTION TO
13 STRUCTURING A REGULATORY MECHANISM THAT WOULD ALLOW
14 THE CONTINUED USE OF NGIC AS AN INSURANCE PROVIDER IN
15 CALIFORNIA PURSUANT TO THESE OTHER LAWS.

16 THE PROBLEM IS, NGIC IS NOT A COMMERCIAL
17 INSURANCE COMPANY. WE HAVE NO INTEREST IN BECOMING AN
18 INSURANCE -- COMMERCIAL INSURANCE CARRIER.

19 OKAY. SO, WHAT ARE OUR OPTIONS TODAY
20 HAVING GONE THROUGH THIS REVIEW, AND WE'RE NOT A --
21 AND THE SQUARE PEG NOT BEING ABLE TO FIT IN THE ROUND
22 HOLE?

23 NUMBER ONE IS, WE COULD STOP USING NGIC

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1 IN CALIFORNIA AND SWITCH TO ANOTHER MECHANISM. THAT'S
2 NOT OUR FIRST CHOICE. IT MAY BE THE RECOMMENDATION OF
3 THE STAFF. BUT, IT IS SIMPLY SOMETHING WE WOULD LIKE
4 TO BE ABLE TO CONTINUE USING NGIC, AS WE HAVE IN 18
5 OTHER STATES. WE BELIEVE IT'S A SAFE AND SECURE
6 MECHANISM.

7 ANOTHER OPTION WOULD BE TO COMPLETELY
8 RESTRUCTURE NGIC SO IT LOOKS LIKE A COMMERCIAL
9 INSURANCE COMPANY TO COMPLY WITH CALIFORNIA INSURANCE
10 LAW. THAT MEANS WE WOULD HAVE TO RESTRUCTURE OUR
11 NATIONWIDE INSURANCE CARRIER FOR ALL 18 STATES THAT WE
12 USE IT IN TO MEET THE REQUIREMENTS OF CALIFORNIA'S
13 SPECIFIC REQUIREMENTS FOR COMMERCIAL INSURANCE
14 COMPANIES.

15 THAT MEANS WE WOULD NOT BE ABLE TO USE
16 LETTERS OF CREDIT. FOR EXAMPLE, WE'D HAVE TO BUY AND
17 SELL INVESTMENT PORTFOLIO OF OTHER COMPANY STOCKS,
18 BONDS, AND CERTIFICATES, AND MAINTAIN THIS PORTFOLIO
19 LIKE ANY OTHER KIND OF INSURANCE COMPANY. WE'RE,
20 FRANKLY, NOT INTERESTED IN DOING THAT PARTICULARLY IF
21 IT'S JUST THE CALIFORNIA REQUIREMENTS THAT ARE FORCING
22 US TO DO THAT NATIONWIDE.

23 WE COULD PURSUE AN ALTERNATIVE WAY TO

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1 APPROVE THIS TYPE OF INSURANCE OPERATION IN
2 CALIFORNIA. AND, BY THE WAY, WE'RE NOT THE ONLY WASTE
3 COMPANY THAT DOES OPERATE A CAPTIVE INSURANCE COMPANY.
4 BFI, FOR EXAMPLE, ALLIED, AND USA, WHICH WE ARE NOW
5 MERGED WITH, OPERATES CAPTIVE INSURANCE COMPANIES FOR
6 PROVIDING THIS TYPE OF FINANCIAL ASSURANCE MECHANISM.

7 OKAY. SO, IF THEY'RE GOING TO PURSUE AN
8 ALTERNATIVE WAY OF DOING THIS, HOW COULD WE DO IT?
9 ONE WOULD BE TO GO AND AMEND THE CALIFORNIA INSURANCE
10 CODE. WE WOULD PROVIDE A SEPARATE PROCESS FOR THE
11 DEPARTMENT OF INSURANCE TO APPROVE AND REVIEW
12 CAPTIVES.

13 THEY'RE, FRANKLY, NOT PARTICULARLY
14 INTERESTED IN DOING THAT. THEY SAY WE DON'T REVIEW
15 CAPTIVES NOW. WE'RE NOT REQUIRED BY CALIFORNIA LAW TO
16 REVIEW CAPTIVES. WE HAVE NO INTEREST IN GETTING
17 INVOLVED IN REVIEWING CAPTIVES.

18 THEY SPECIFICALLY SAID THE BETTER
19 APPROACH WOULD BE TO GO BACK TO THE REGULATORY AGENCY
20 THAT SENT US OVER HERE IN THE FIRST PLACE AND SEE IF
21 YOU CAN'T WORK OUT SOME WAY FOR THEM TO REVIEW AND
22 APPROVE PURSUANT TO THOSE SPECIFIC ENVIRONMENTAL LAWS.

23 WELL, HEY, WE OPERATE TODAY UNDER THE

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1 HAZARDOUS WASTE CONTROL LAW. I WOULD LIKE TO OPERATE
2 PURSUANT TO THE PUBLIC RESOURCES CODE AND THE SOLID
3 WASTE LEGISLATION.

4 OR YOU CAN GO BACK AND MODIFY YOUR OWN
5 REGULATIONS. AFTER ALL, IT'S THIS BOARD'S REGULATIONS
6 THAT BECAME EFFECTIVE LAST JULY OR AUGUST, IN '97,
7 THAT FORCED US TO GO THROUGH THE DEPARTMENT OF
8 INSURANCE WHICH OTHERWISE WE WOULDN'T HAVE BEEN
9 REQUIRED TO DO.

10 OUR APPROACH, AND WHAT WE BELIEVE TO BE
11 THE BEST, IN CONSULTATION WITH OTHER COMPANIES THAT
12 PROVIDE THIS TYPE OF MECHANISM, IS TO PURSUE A
13 LEGISLATIVE OPTION THROUGH AB 715.

14 YOU'RE REQUIRED TO OPERATE IN FULL
15 COMPLIANCE WITH SUBTITLE D. YOU HAVE TO HAVE A SECURE
16 INVESTMENT RATING. YOU'VE GOT TO HAVE AN ANNUAL
17 REPORT. YOU'VE GOT TO BE DOMESTICALLY LICENSED AND
18 ALLOWED TO OPERATE IN THAT STATE OF LICENSE.

19 THE CALIFORNIA DEPARTMENT OF INSURANCE
20 HAS INDICATED TO US THAT THEY'RE NEUTRAL ON THIS BILL.
21 THAT IS, THEY DON'T OBJECT TO IT. THEY HAVE NO
22 PROBLEM. THEY'VE INDICATED THAT IN WRITING. I HAVE
23 PROVIDED THAT LETTER TO YOU.

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1 AND, THEY HAVE INDICATED THAT -- THEY'VE
2 ASKED US TO TAKE ONE MINOR AMENDMENT TO THAT BILL, AND
3 ASSEMBLYWOMAN FIGUEROA, THE CHAIR OF THE INSURANCE
4 COMMITTEE WHO'S AUTHORIZING THIS LEGISLATION HAS TAKEN
5 THAT AMENDMENT.

6 SO, AS FAR AS WE'RE AWARE, THE
7 DEPARTMENT OF INSURANCE IS NEUTRAL ON PROVIDING THIS
8 ALTERNATIVE WAY OF ALLOWING A CAPTIVE INSURANCE
9 COMPANY TO PROVIDE SOLID WASTE FINANCIAL ASSURANCE IN
10 THIS STATE.

11 THE PROBLEM WE HAVE IS OUR SIX-MONTH
12 EXTENSION RUNS OUT -- TECHNICALLY YESTERDAY, SAY
13 TODAY. WE BELIEVE THAT WE'RE JUST WITHIN A GRASP AWAY
14 OF HAVING A SOLUTION TO THIS PROBLEM, AND WE WOULD
15 PREFER NOT TO TEMPORARILY HAVE TO TRANSITION OUT OF
16 AND THEN TO HAVE TO GO THROUGH THE COST OF
17 TRANSITIONING BACK IN AGAIN ONCE THE LEGISLATION IS
18 COMPLETE.

19 IDEALLY, WE WOULD LIKE, AND REQUEST,
20 THIS BOARD TO EXTEND YOUR TEMPORARY, INTERIM
21 AUTHORIZATION TO OPERATE FOR AN ADDITIONAL SIX MONTHS.
22 YOU GRACIOUSLY HAD PROVIDED THAT TO US LAST JANUARY.
23 WE APPRECIATE THAT.

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1 IF YOU EXTEND IT ANOTHER SIX MONTHS,
2 THAT WOULD TAKE US THROUGH THE END OF JANUARY OF '99.
3 THE AB 715 WILL BECOME EFFECTIVE ON THE FIRST OF THAT
4 MONTH. WE BELIEVE THERE WILL BE SUFFICIENT TIME TO
5 OPERATE IN COMPLIANCE, AND IN ACCORDANCE WITH THE
6 WISHES OF THIS BOARD PURSUANT TO THAT ACT.

7 AT A MINIMUM WE WOULD ASK AT LEAST GIVE
8 US ADDITIONAL TIME TO SEE IF THE BILL IS EFFECTIVE.
9 THE BILL -- THE GOVERNOR'S LAST DAY TO SIGN IN EFFECT
10 A BILL WOULD BE -- IT WOULD BE SEPTEMBER 30TH. SO, A
11 THREE-MONTH EXTENSION TO THE BOARD MEETING IN OCTOBER
12 WOULD BE THE FIRST -- WOULD BE A TIME FOR THE BOARD TO
13 COME BACK AND REVIEW WHETHER OR NOT THAT LEGISLATION
14 HAD BEEN SUCCESSFUL.

15 SO, AT A MINIMUM WE THINK A THREE-MONTH
16 EXTENSION TO OCTOBER BOARD MEETING WOULD BE -- NOT A
17 PREFERABLE WAY TO GO, BUT IT CERTAINLY WOULD BE
18 ACCEPTABLE TO US.

19 AND, BY THE WAY, WE ARE FULLY COMMITTED
20 TO REPORT TO YOU ON A -- AS FREQUENTLY AS YOU WISH,
21 MONTHLY, WEEKLY, DAILY -- ON OUR SUCCESS OF HOW WE ARE
22 DOING, WHAT THE COURSE OF THE LEGISLATION IS.

23 WE'LL MAKE A COMMITMENT THAT WE WON'T

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1 EXPAND THE USE OF NGIC IN CALIFORNIA BEYOND WHAT WE'RE
2 CURRENTLY USING IT FOR AND NO NEW FACILITIES, NO NEW
3 UNITS WHEN NEW FACILITIES COME UP FOR PERMITTING. THE
4 REASON WE WE'RE LOOKING TO DO THIS -- WE'RE NOT
5 EXPANDING THE OPERATION UNTIL WE HAVE THE FINAL
6 MECHANISM FOR ITS REVIEW AND APPROVAL.

7 WE WOULD JUST LIKE TO BE ABLE TO NOT
8 HAVE TO GO THROUGH THE EXPENSE OVER A TWO- OR THREE-
9 MONTH HIATUS TO GO -- TO TRANSITION OUT, TO TRANSITION
10 BACK IN AGAIN.

11 WASTE MANAGEMENT IS FULLY COMMITTED TO
12 WORKING CLOSELY WITH THIS BOARD AND THE DEPARTMENT OF
13 INSURANCE TO ENSURE THAT A RESPONSIBLE AND SECURE
14 REGULATORY MECHANISM EXISTS IN CALIFORNIA TO ALLOW
15 CAPTIVE INSURANCE COMPANIES TO PROVIDE SOLID WASTE
16 FINANCIAL ASSURANCE IN A MANNER THAT IS IN COMPLIANCE
17 WITH CALIFORNIA INSURANCE LAW, IN A MANNER THAT'S
18 FULLY COMPLIANT WITH SUBTITLE D, IT'S CONSISTENT WITH
19 THE GOALS AND OBJECTIVES OF THIS BOARD AND THE PUBLIC
20 RESOURCES CODE, AND IS CONSISTENT WITH THE PARALLEL
21 REQUIREMENTS THAT CURRENTLY ARE IMPOSED BY THE
22 HAZARDOUS WASTE CONTROL LAW ON OUR OWN HAZARDOUS WASTE
23 FACILITIES THAT OPERATE TODAY IN CALIFORNIA.

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1 BUT, WE'RE NOT QUITE THERE YET. WE'RE
2 WITHIN, LIKE I SAY, A GRASP OF IT BUT WE'RE NOT QUITE
3 THERE. SO, WE WOULD ASK THE BOARD, PLEASE CONSIDER
4 GIVING US AN ADDITIONAL FEW MONTHS -- PREFERABLY SIX,
5 ACCEPTABLY THREE -- SO WE CAN DETERMINE WHETHER OR NOT
6 THIS LEGISLATION WILL BE EFFECTIVE. WE BELIEVE IT
7 WILL BE. THERE'S NO KNOWN OPPOSITION TO IT -- AND TO
8 PROVIDE A MECHANISM FOR THIS BOARD TO CLEARLY REVIEW
9 AND APPROVE A CAPTIVE INSURANCE COMPANY WITHOUT HAVING
10 TO SEND IT TO THE DEPARTMENT OF INSURANCE, WHICH IS
11 SIMPLY NOT SET UP TO REVIEW THIS TYPE OF MECHANISM.
12 THANK YOU.

13 CHAIRMAN PENNINGTON: QUESTIONS FOR --

14 MEMBER JONES: MR. CHARIMAN.

15 CHAIRMAN PENNINGTON: MEMBER JONES?

16 MEMBER JONES: WHEN MR. FRAZEE AND I HEARD
17 THIS ITEM AT QUESTION, WE HAD ASKED A COUPLE OF
18 QUESTIONS. IT SEEMS ODD TO ME THAT THIS INSURANCE
19 MEETS SUBTITLE D CAN DEAL WITH THE HAZARDOUS WASTE
20 SITE DOWN AT KETTLEMANS AND DOESN'T WORK HERE.

21 AND MR. CASTLE BROUGHT UP A GOOD POINT
22 THAT I WASN'T AWARE OF THAT I THINK NEEDS TO BE ON THE
23 RECORD, AND THAT IS THAT THE WAY SUBTITLE D IS WRITTEN

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1 IT DOESN'T -- AN INSURANCE COMPANY -- AN NGIC
2 INSURANCE COMPANY DOESN'T HAVE TO BE DOMICILED IN THE
3 UNITED STATES AND, IN FACT, COULD BE A CARIBBEAN
4 COMPANY THAT'S A PAPER COMPANY. AND THERE WERE SOME
5 FAILURES WHERE THERE WASN'T ANYTHING TO BACK UP WHEN A
6 CLAIM WAS PUT AGAINST AN INSURANCE POLICY.

7 I MEAN, THAT'S A HUGE ISSUE. THAT KIND
8 OF CHANGED MY VIEW ON, YOU KNOW, WHY COULDN'T WE JUST
9 DEAL WITH THE REGULATIONS. IT WOULD SEEM TO ME WE
10 COULD AT SOME POINT WORK THIS OUT, THAT IT NEEDS TO BE
11 DOMICILED IN THE UNITED STATES OR SOMETHING LIKE THAT,
12 IF THERE'S VALUE IN DOING THAT.

13 BUT I SEE THREE BENCHMARKS, CHUCK. I
14 SEE A BENCHMARK -- THE OUTCOME OF THE LEGISLATION
15 BEING THE FIRST BENCHMARK. THE GOVERNOR'S INCLINATION
16 TO SIGN IT IS THE SECOND BENCHMARK. AND THEN THE TIME
17 IT WOULD TAKE FOR US TO PUT THE REGULATIONS TOGETHER.
18 BUT, WHICH PROBABLY FALLS WITHIN A SIX-MONTH TIME
19 FRAME.

20 AND, I THINK IT MAKES A LOT OF SENSE TO
21 FASHION A COMPROMISE THAT SAYS "GIVE THEM THE
22 EXTENSION. THESE ARE THE BENCHMARKS, BUT AT THE SAME
23 TIME, PRIOR TO THAT OR CONCURRENTLY, DO THEY WORK TO

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1 GET OTHER MECHANISMS IN PLACE SO THAT IF, IN FACT, THE
2 LEGISLATION GOES THROUGH AND THE GOVERNOR DECIDES NOT
3 TO SIGN IT, OR VICE VERSA, YOU DON'T GET ANOTHER 60
4 DAYS BY STATUTE BECAUSE WE NOTIFY YOU, AND THEN YOU'VE
5 GOT TO GO ANOTHER 60 DAYS."

6 BECAUSE OF THAT I DON'T THINK -- I DON'T
7 THINK -- WHILE I AM COMFORTABLE WITH THE NGIC, I THINK
8 THAT WE NEED TO BE PRETTY EVENHANDED HERE, AND IT
9 WOULD SEEM TO ME THAT IF WE NOTIFIED YOU TODAY THAT
10 WE'RE GOING TO HIT THESE BENCHMARKS, IF YOU GET A NO
11 VOTE ANYWHERE ALONG THE WAY, YOU'RE 60 DAYS WAS
12 ALREADY GIVEN TO YOU TO GET FINANCIAL ASSURANCE IN
13 PLACE AND THEN I THINK YOU'RE LOOKING AT A MATTER OF
14 WEEKS, YOU KNOW, AS OPPOSED TO TWO MORE MONTHS.

15 MR. WHITE: IT WOULD TAKE US AT LEAST TWO TO
16 THREE WEEKS TO TRANSITION TO ANOTHER MECHANISM.

17 MEMBER JONES: RIGHT.

18 MR. WHITE: WE DO HAVE THOSE ALTERNATIVE
19 MECHANISMS SET UP. WE PREFER NOT TO TRANSITION TO
20 THEM AT THIS PRESENT TIME.

21 MEMBER JONES: I UNDERSTAND.

22 MR. WHITE: WE'RE PREPARED TO DO THAT. WE
23 HAVE NO DESIRE TO OPERATE OUT OF COMPLIANCE WITH THE

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1 WISHES OF THIS BOARD OR THE PUBLIC RESOURCES CODE OR
2 YOUR REGULATIONS. WE HONESTLY ARE NOT GOING TO DO
3 THAT. SO, WE ARE PREPARED TO MAKE THAT COMMITMENT.
4 WE WOULD JUST NEED A PERIOD OF TIME TO GO THROUGH THE
5 ADMINISTRATIVE MECHANICS OF SWITCHING OUT. HOPEFULLY
6 WE DON'T COME TO THAT.

7 MEMBER JONES: SEE, AND I WOULDN'T HAVE ANY -
8 - I MEAN, THE BOARD MEMBERS -- WE CAN DISCUSS THIS,
9 BUT IT WOULD SEEM TO ME THAT IF WE PUT A -- IF WE PUT
10 THE BENCHMARKS HERE AND WE FIGURED OUT A WAY TO
11 FASHION THIS -- THAT TODAY IS NOTIFICATION BUT, YOU
12 KNOW, YOU PUT THESE PIECES TOGETHER.

13 AND THEN AFTER ONE OF THESE -- IF ONE OF
14 THESE FAILS, THEN YOU HAVE FIVE WEEKS, FOUR WEEKS,
15 WHATEVER IS AGREED TO. TO ACTUALLY HAVE THEM IN PLACE
16 WOULD GIVE ME -- I THINK WOULD GIVE WASTE MANAGEMENT A
17 COMFORT LEVEL. IT WOULD GIVE ME A COMFORT LEVEL AND
18 I'M PRETTY SURE WOULD GIVE -- I HOPE IT WOULD GIVE
19 EVERYBODY ELSE A COMFORT LEVEL THAT THIS THING IS IN
20 PLACE.

21 I THINK IT MAKES SENSE TO GET THE
22 LEGISLATIVE REMEDY. BUT I ALSO WANT TO HAVE THE
23 INSURANCE BALL -- YOU KNOW, I WANT TO HAVE IT ENSURED

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1 THAT IF YOU DON'T GET IT WE'RE NOT SITTING HERE FOR
2 ANOTHER SIX MONTHS.

3 MR. WHITE: INSURANCE ON INSURANCE, IN OTHER
4 WORDS.

5 MEMBER JONES: EXACTLY.

6 MR. WHITE: WE CAN LIVE WITH THAT.

7 CHAIRMAN PENNINGTON: MR. FRAZEE?

8 MEMBER FRAZEE: YES. I JUST WANTED TO POINT
9 OUT IN RESPONSE TO MY QUESTION ON THIS ITEM
10 PREVIOUSLY, THAT COUNSEL INDICATED THAT IF THE
11 LEGISLATION PASSES, THAT PREVAILS EVEN THOUGH IT MAY
12 BE IN CONFLICT WITH OUR REGULATIONS, SO THAT THERE
13 WOULD NOT BE A NEED -- AM I STATING THIS CORRECTLY?
14 THERE WOULD NOT BE A NEED TO RUSH INTO REGULATION OR
15 WOULD THAT REGULATION PACKAGE HAVE TO BE ACCOMPLISHED
16 IN ORDER TO ALLOW THIS, THAT THE STATUTE WOULD PREVAIL
17 IN SPITE OF THE CONFLICT WITH THE REGULATION?

18 MS. TOBIAS: THE STATUTE WOULD PREVAIL. IN
19 LOOKING AT THE LEGISLATION THUS FAR, I'M NOT SURE THAT
20 WE WOULD HAVE TO DO MUCH IN TERMS OF REGULATIONS TO DO
21 THIS.

22 LEGAL OFFICE, I THINK, STILL HAS A
23 CONCERN ABOUT WHO IS GOING TO EVALUATE THIS, IN TERMS

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1 OF THE FACT THAT, WHILE I HAVE THE UTMOST RESPECT FOR
2 -- AND I THINK WE HAVE HIGHLY COMPETENT FINANCIAL
3 ASSURANCES SECTION, I THINK EVALUATING WHETHER OR NOT
4 THIS TYPE OF ENTITY WOULD BE ABLE TO DO WHAT IT'S
5 SUPPOSED TO DO UNDER OUR FINANCIAL ASSURANCE LAWS
6 NEEDS TO BE EVALUATED BY AN OUTSIDE ENTITY EXPERT AND
7 BASICALLY NEEDS TO BE PAID FOR BY WHOMEVER IS ASKING
8 FOR THAT PRIVILEGE OF USING A DIFFERENT TYPE OF
9 MECHANISM. SO, THAT'S SOMETHING THAT WE WOULD BE
10 WORKING WITH THE LEGE (SIC) OFFICE ON TO MAKE SURE
11 THAT THAT OCCURRED.

12 MR. WHITE: WE WOULDN'T OBJECT TO HAVING SOME
13 DISCUSSIONS WITH THE BOARD ON THIS PARTICULAR AREA.
14 HOWEVER, I HAVE TO POINT OUT THE DEPARTMENT OF TOXICS
15 REVIEWS THIS INSURANCE MECHANISM EVERY YEAR AND IS
16 ABLE TO DETERMINE THAT IT OPERATES IN COMPLIANCE WITH
17 THEIR REGULATIONS.

18 MS. TOBIAS: AND THAT MAY BE SO, MR. WHITE.
19 I THINK THERE'D BE A DIFFERENCE, AT LEAST FOR US, IN
20 TERMS OF THE INITIAL EVALUATION AS OPPOSED TO THE
21 YEAR-BY-YEAR EVALUATION. I THINK ONCE WE'VE HAD
22 SOMEBODY -- AND IF THERE'S THE ABILITY TO LOOK TO
23 ANOTHER DEPARTMENT, I CERTAINLY HAVE NO PROBLEM WITH

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1 THAT EITHER. BUT I DO WANT THE ABILITY TO GO TO AN
2 OUTSIDE EXPERT IF WE NEED TO.

3 AND THEN I THINK CERTAINLY ONCE WE
4 LOOKED AT THAT, YOU KNOW, KEEPING THAT UP, I DON'T SEE
5 THAT AS BEING AN ANNUAL EVENT IN TERMS OF THAT --

6 R. WHITE: WE WOULD BE HAPPY TO WORK
7 WITH THE BOARD. WE'VE STRUCTURED THE LEGISLATION SO
8 IT'S NOT MANDATORY, IT'S PERMISSIVE, THE BOARD MAY
9 APPROVE AN INSURANCE COMPANY THAT MEETS THE
10 REQUIREMENTS OF THE LEGISLATION. IT DOESN'T PREVENT
11 THE BOARD FROM PUTTING ADDITIONAL REGULATORY
12 REQUIREMENTS OR EVEN AS PART OF THEIR APPROVAL PUT
13 REASONABLE REQUIREMENTS ON THAT OPERATION.

14 WE HAVE NOT SOUGHT TO RESTRICT THE
15 AUTHORITY OF THIS BOARD IN REVIEWING THAT. ALL WE'RE
16 SAYING IS WE ESTABLISHED SOME MINIMUM BENCHMARKS THAT
17 WE BELIEVE TO BE REASONABLE AND APPROPRIATE TO ALLOW
18 THIS TYPE OF MECHANISM TO CONTINUE TO OPERATE, BUT NOT
19 AS A COMMERCIAL INSURANCE PROVIDER, BUT AS A CAPTIVE.

20 MS. TOBIAS: AND ALL I THINK I'M ADDING TO
21 THAT IS THAT IN ORDER FOR US TO CHARGE YOU FOR THAT
22 EVALUATION, WE WOULD NEED THAT STATUTORY AUTHORITY, IN
23 THAT SENSE.

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1 CHAIRMAN PENNINGTON: YOU INDICATED THAT IT
2 WOULD TAKE YOU TWO TO THREE WEEKS TO MAKE THE
3 NECESSARY ADJUSTMENTS?

4 MR. WHITE: THAT'S WHAT MY FINANCIAL ADVISORS
5 HAVE -- TELL ME, YES, IT WOULD TAKE THAT AMOUNT OF
6 TIME.

7 CHAIRMAN PENNINGTON: SO THAT WOULD FALL
8 WITHIN THAT LIKELY 30-DAY PERIOD AFTER THE LEGISLATURE
9 HAD FINALLY DISPOSED OF THE BILL ONE WAY OR THE OTHER
10 --

11 MR. WHITE: AND THE GOVERNOR SIGNED IT.

12 CHAIRMAN PENNINGTON: -- SIGNATURE, SO THAT -
13 -

14 MR. WHITE: -- BEFORE THE OCTOBER BOARD
15 MEETING WE WOULD KNOW -- WE WOULD EITHER BE ABLE TO
16 TRANSITION OUT OF IT OR --

17 CHAIRMAN PENNINGTON: ACTUALLY, YOU'D
18 PROBABLY KNOW BEFORE THE SEPTEMBER BOARD MEETING.
19 IT'S LIKELY --

20 MR. WHITE: POSSIBLY. HOPEFULLY THE
21 LEGISLATION IS FINISHED BY THEN.

22 CHAIRMAN PENNINGTON: -- IF THERE'S NOT ANY
23 REAL OBJECTION FROM THE GOVERNOR'S OFFICE. YOU KNOW,

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1 YOU'VE STILL GOT TO HAVE IT DONE BY THE 30TH IF WE
2 GAVE YOU THE 60-DAY --

3 MR. WHITE: THAT'S CORRECT, 60 DAYS WE WOULD
4 KNOW --

5 CHAIRMAN PENNINGTON: YOU WOULD KNOW STILL BY
6 THE TIME THAT THE GOVERNOR WAS -- HIS DEADLINE HAD
7 RUN. BUT --

8 MR. WHITE: ALMOST. YEAH.

9 CHAIRMAN PENNINGTON: -- THREE DAYS OR
10 SOMETHING, BUT AT THAT POINT WE COULD EXTEND TO COVER
11 THAT PERIOD FROM SEPTEMBER 30 TO OCTOBER 1, BECAUSE I
12 ASSUME THAT IF WE GAVE THEM A 60-DAY NOTICE NOW, AT
13 THE END OF THAT 60 DAYS HE'D BE IN LIMBO FROM
14 SEPTEMBER 30TH TO JANUARY 1 EVEN IF THE LEGISLATION
15 WOULD PASS.

16 MEMBER JONES: YEAH, BUT I WAS THINKING THAT
17 IF WE GAVE THEM THE EXTENSION AND PUT THE BENCHMARKS
18 IN, THE EXTENSION COULD BE LONGER THAN 60 DAYS. BUT
19 AT THE SAME TIME GIVE HIM NOTIFICATION THAT THE 60-DAY
20 RULE IS IN EFFECT EFFECTIVE TODAY. SO THEY'D BE -- I
21 DON'T KNOW HOW -- WORD SMITHS ARE GOING TO HAVE TO
22 CRAFT THIS, BUT, WE GIVE THEM THE EXTENSION, AND THEN
23 IF ANY OF THESE BENCHMARKS STOP, HE HAD ALREADY BEEN

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1 GIVEN 60-DAY NOTICE, SO YOU'VE GOT TO --

2 MR. WHITE: I HAVE TWO OR THREE WEEKS TO
3 TRANSITION OUT BEFORE --

4 MEMBER JONES: EXACTLY.

5 (THE PARTIES SIMULTANEOUSLY SPEAK.)

6 MR. WHITE: -- EACH OF THOSE THREE
7 BENCHMARKS.

8 MEMBER JONES: YEAH, THAT'S HOW I WOULD SEE -
9 -

10 MEMBER EATON: MR. CHAIR?

11 MEMBER JONES: -- IF THAT WOULD WORK. I
12 DON'T KNOW IF THAT WOULD WORK, BUT --

13 MEMBER EATON: MR. CHAIR?

14 CHAIRMAN PENNINGTON: MEMBER EATON?

15 MEMBER EATON: FIRST AND FOREMOST -- I HAD
16 SOME PRELIMINARY COMMENTS -- BUT, IF WE NOTIFY HIM OF
17 THE 60 DAYS THAT IS, IN ESSENCE, THE EXTENSION.

18 MEMBER JONES: RIGHT.

19 MEMBER EATON: SO WE DON'T HAVE TO ADD AN
20 EXTENSION ON TO THE NOTIFICATION. THAT, IN ESSENCE,
21 IS THE EXTENSION.

22 CHAIRMAN PENNINGTON: CORRECT. I THINK WHAT
23 MEMBER JONES IS LOOKING AT, THOUGH, THAT IF WE GIVE

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1 THEM THE 60-DAY NOTICE --

2 MEMBER EATON: CORRECT.

3 CHAIRMAN PENNINGTON: -- AND WE GET TO THE
4 END OF THE 60-DAY NOTICE, AND THE LEGISLATION HAS
5 PASSED AND THE GOVERNOR HAS SIGNED IT, YOU STILL HAVE
6 THAT PERIOD FROM SEPTEMBER 30TH TO JANUARY 1 THAT HE
7 WOULD BE OUT OF COMPLIANCE.

8 MEMBER EATON: NO.

9 MR. CHANDLER: NO. BECAUSE, AS COUNSEL JUST
10 SAID, THE STATUTE HAS BEEN PASSED, UNDER YOUR
11 SCENARIO, AND THE GOVERNOR HAS SIGNED IT, SO THE
12 STATUTE --

13 CHAIRMAN PENNINGTON: BUT IT'S NOT EFFECTIVE
14 UNTIL --

15 MR. CHANDLER: IT'S NOT EFFECTIVE
16 TECHNICALLY.

17 (THE PARTIES SIMULTANEOUSLY SPEAK.)

18 MR. CHANDLER: I THOUGHT WE WERE INDICATING
19 THAT THE STATUTE WOULD --

20 CHAIRMAN PENNINGTON: IT WOULD ONCE IT
21 BECOMES EFFECTIVE.

22 MEMBER EATON: I THINK THE ISSUE HERE REALLY
23 IS ONE OF NOT WHETHER OR NOT THIS IS A SAFE AND SECURE

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1 MECHANISM, I THINK THAT THAT'S A GIVEN IN SOME
2 RESPECTS.

3 I THINK THE ISSUE RIGHT HERE FOR THE
4 BOARD IS WHETHER OR NOT WE HAVE A SITUATION WHERE WE
5 HAVE A REGULATION AND WE HAVE A SITUATION OF
6 NONCOMPLIANCE, THAT HAS BEEN A SITUATION BY WHICH BOTH
7 SIDES HAVE TRIED TO REACH ACCOMMODATION, HAVE BEEN
8 VERY COOPERATIVE AND GRACIOUS IN EXTENDING IT.
9 HOWEVER, WE ARE AT A POINT RIGHT NOW WHERE WE ARE
10 GOING TO BE SENDING THE WRONG MESSAGE IF EACH TIME WE
11 HAVE A REGULATION AND A NONCOMPLIANCE SITUATION THAT
12 WE CONTINUE TO EXTEND IT PAST THE TIME.

13 WE WILL KNOW, AND I THINK IT'S FAIR TO
14 THIS BOARD, THAT WITH THE 60-DAY NOTICE TO GET YOUR
15 SHOP IN ORDER, WE WILL EITHER KNOW IN 30 DAYS WHETHER
16 OR NOT THAT BILL HAS PASSED. I AM NOT COMING FROM THE
17 LEGISLATURE AS CONFIDENT AS PERHAPS MR. WHITE IS, THAT
18 ANY BILL WILL PASS, ESPECIALLY GIVEN THIS SITUATION
19 THIS YEAR.

20 AND, SO I THINK THE BOARD NEEDS TO
21 PROTECT ITSELF. AND THE BEST WAY TO PROTECT ITSELF IS
22 TO BE IN A BEST POSITION THAT IF IN A SITUATION THAT
23 THE LEGISLATION DOES PASS, IT'S A NO HARM, NO FOUL.

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1 IF IT DOESN'T PASS THEN VERY SHORTLY, COME AUGUST
2 31ST, THAT TWO- TO THREE-WEEK PERIOD WILL BE A TIME BY
3 WHICH MR. WHITE, ACCORDING TO HIS OWN TESTIMONY, WILL
4 BE ABLE TO PUT HIS DUCKS IN ORDER, AND THEN BE IN
5 COMPLIANCE BY WITHIN THE 60 DAYS.

6 THAT SEEMS TO BE THE MOST APPROPRIATE
7 MECHANISM. IT SENDS THE RIGHT MESSAGE TO ALL OF OUR
8 PEOPLE WHO COME BEFORE US, THAT THE BOARD WILL BE
9 VERY, VERY OPEN TO WORKING WITH YOU, BUT AT A CERTAIN
10 POINT WE HAVE TO DO WHAT'S RIGHT AND WHAT IS NECESSARY
11 IN ORDER TO PROTECT, I THINK, THE INTEGRITY OF OUR OWN
12 REGULATIONS, IRRESPECTIVE -- AND THERE'S PROBABLY A
13 LOT THAT CAN BE -- EQUITIES THAT CAN BE SAID ON BOTH
14 SIDES.

15 BUT WE ARE NOW AT A DIFFERENT SITUATION
16 WHERE WE'RE ALMOST REACHING A YEAR WHEREIN THIS HAS
17 JUST KIND OF GONE ON AND ON, AND WE NEED TO ALSO HAVE
18 SOME MECHANISM BY WHICH THIS BOARD PROTECTS ITS OWN
19 REGULATIONS.

20 SO I WOULD JUST BE IN SUPPORT OF MOVING
21 WHAT MR. CHANDLER HAD SAID. AND THEN IF AND INDEED WE
22 ARE IN A DIFFERENT SITUATION, WE CAN COME BACK --
23 SINCE WE ARE PROBABLY GOING TO MEET MORE OFTEN THAN

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1 NOT -- THAT WE CAN TAKE THIS MATTER UP IN ENOUGH TIME
2 SO MR. WHITE CAN HAVE -- IF HE IS SUCCESSFUL IN
3 GETTING THIS LEGISLATION PASSED -- THE APPROPRIATE
4 TIME TO WORK WITH US, AS HE HAS IN THE PAST, TO MAKE
5 SURE THAT THIS WORKS IF THE LEGISLATION IS PASSED AND
6 SIGNED INTO LAW.

7 CHAIRMAN PENNINGTON: ANY OTHER DISCUSSION ON
8 THAT?

9 MEMBER JONES: JUST THAT I THOUGHT MY
10 STRUCTURE WOULD KIND OF FIT IN WITH WHAT MR. CHANDLER
11 HAD TALKED ABOUT. WHAT I WORRY ABOUT IS THE -- I
12 GUESS I DON'T REALLY WORRY THAT MUCH ABOUT IT, BUT
13 WHEN WE HEARD THIS ITEM THE FIRST TIME THERE WAS
14 NOBODY THAT OBJECTED, AND THE ROOM WAS FILLED WITH ALL
15 THE USUAL SUSPECTS, TO DOING THIS.

16 THE 60-DAY RULE -- I WAS HOPING BY
17 HITTING THESE BENCHMARKS, IF WE GAVE NOTICE TODAY,
18 THEN WE'RE NOT PUTTING OURSELVES IN PERIL. ALL I --
19 YOU KNOW WHAT I MEAN?

20 AND SO ALL I WAS SAYING WAS YOU RUN THEM
21 CONCURRENTLY. YOU GIVE THEM BENCHMARKS THAT IF AT ANY
22 TIME DURING -- OTHERWISE IN 60 DAYS IF IT'S PASSED THE
23 LEGISLATURE BY THE GOVERNOR HASN'T SIGNED IT, THEN

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1 HE'S GOING TO COME BACK IN FRONT OF US AND ASK FOR AN
2 EXTENSION FOR ANOTHER COUPLE OF MONTHS.

3 AND ALL I WAS TRYING TO SAY WAS IF ANY
4 OF THESE BENCHMARKS SAY NO, HE'S ALREADY BEEN GIVEN
5 THE 60-DAY NOTICE. HE'S GOT TO COME UP WITH ANOTHER
6 FINANCIAL ASSURANCE. I GUESS IT WAS JUST A WAY TO NOT
7 HAVE TO KEEP HEARING THE REQUEST, BECAUSE IT'S
8 APPROVED, NOW WE'VE GOT TO WAIT FOR THE GOVERNOR, AND
9 IT'S APPROVED, AND NOW WE'VE GOT TO WAIT FOR THIS.

10 SO, I DON'T REALLY CARE ONE WAY OR
11 ANOTHER, IT JUST SEEMED TO ME LIKE IT WAS A WAY THAT
12 IF WE HAD INSURANCES WITH BENCHMARKS AND WE GAVE THE
13 NOTICE TODAY THAT WE HAD COVERED OURSELVES FROM THE
14 60-DAY LAW, RULE --

15 MR. WHITE: THE WAY I UNDERSTAND IT, MEMBER
16 JONES, IS IF, FOR EXAMPLE, THE LEGISLATION DOES NOT
17 PASS, THAT MEANS -- IT HAS TO BE PASSED BY THE END OF
18 AUGUST. THAT MEANS I WOULD HAVE TWO OR THREE WEEKS TO
19 TRANSITION --

20 MEMBER JONES: YOU'D HAVE THREE WEEKS.

21 MR. WHITE: -- TO ANOTHER MECHANISM --

22 MEMBER JONES: RIGHT.

23 MR. WHITE: -- AND I WOULD DO THAT.

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1 HOWEVER, IF IT DOES PASS, THEN IT WOULD
2 MOVE TO THE NEXT POINT WHICH THE GOVERNOR SIGNS IT.
3 AND IF HE DOESN'T, THEN I WOULD HAVE TWO OR THREE
4 WEEKS --

5 MEMBER JONES: YOU'VE GOT TWO OR THREE WEEKS,
6 AND THAT'S IT.

7 MR. WHITE: AND THEN AT THAT POINT -- I MEAN,
8 I THINK THAT'S -- BASICALLY, I THINK THE TWO PROPOSALS
9 ARE EXACTLY CONSISTENT. IT'S JUST SIMPLY DO I HAVE TO
10 COME BACK EACH TIME BEFORE THE BOARD AND GET A
11 SPECIFIC ACTION, OR ARE YOU GOING TO SET UP THE
12 FRAMEWORK NOW AT ONE TIME TO ESTABLISH THIS KIND OF
13 ROLLING PROCESS BY WHICH I HAVE TO MEET CERTAIN
14 INTERIM POINTS? AND I BELIEVE WE CAN -- WE'RE WILLING
15 TO COMMIT TO --

16 MEMBER EATON: THERE IS ONE WAY WE CAN
17 RESOLVE THE ISSUE TO AVOID THE CONCURRENT AND PERHAPS
18 CONFUSING OVERLAPPING PROPOSALS. IF THERE IS NO
19 OPPOSITION, SIMPLY AMEND YOUR BILL TO BE AN URGENCY
20 STATUTE, WHICH TAKES PLACE WITHIN 30 DAYS, AND WE
21 DON'T EVEN HAVE TO GET INTO THE SITUATION. AND I
22 THINK THAT'S WHAT -- I WOULD BE VERY SUPPORTIVE OF
23 THAT.

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1 MR. WHITE: I'LL REMIND YOU OF YOUR SUPPORT -
2 -

3 MEMBER EATON: I'D SUPPORT THAT AMENDMENT, I
4 DIDN'T SAY I'D SUPPORT THE BILL.

5 MEMBER JONES: I MEAN, I DON'T HAVE -- I
6 AGREE WITH MEMBER EATON. I MEAN, I DON'T WANT TO PUT
7 US IN PERIL, AND I WAS KIND OF HOPING THIS WOULD TAKE
8 CARE OF IT. BUT IF IT DOESN'T AND IT'S GOT TO BE 60
9 DAYS, THEN IT'S GOT TO BE 60 DAYS.

10 I MEAN, I WAS VERY -- YOU KNOW, I
11 THOUGHT I WAS CLEAR THAT THE 60 DAYS IS AUTOMATIC. I
12 MEAN IT JUST -- THAT'S IT. AND THE BENCHMARKS JUST
13 WOULD KIND OF -- YOU KNOW, HIT THEM. IF YOU DON'T HIT
14 THEM, IT'S TRIGGERED. SO, I THINK WE'RE TALKING
15 BASICALLY THE SAME THING WITH JUST A LITTLE TWIST, BUT
16 --

17 CHAIRMAN PENNINGTON: I GUESS I'D LIKE TO
18 HEAR FROM COUNSEL ON THIS. CAN WE GO DOWN THIS DUAL
19 PATH? I MEAN, CAN WE ISSUE AN ORDER, A 60-DAY ORDER
20 AND HAVE SOMETHING ELSE RUNNING ON THE OTHER SIDE?

21 MS. TOBIAS: WELL, I GUESS I'D BE INTERESTED
22 IN HEARING FROM THE FINANCIAL ASSURANCES PEOPLE,
23 REALLY, IN TERMS OF THE MEETING OF THAT.

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1 I DON'T KNOW, I HAVE SOME QUESTIONS IN
2 MY MIND ABOUT KIND OF STEPPING DOWN. AND I'M ALSO A
3 LITTLE BIT CONCERNED ABOUT EXTENDING IT FOR THE 60
4 DAYS. AND THEN AT THAT POINT, IF IT DOESN'T HAPPEN,
5 I'M A LITTLE BIT WORRIED ABOUT HOW THAT LOOKS TO
6 ANYBODY WHO'S REVIEWING THIS IN TERMS OF HOW STRONG
7 WE'RE BEING ABOUT FINANCIAL ASSURANCES. BUT, REALLY,
8 RICHARD'S MUCH MORE OF AN EXPERT IN THIS THAN I AM.

9 MEMBER EATON: I THINK THERE'S ALSO THE
10 CONTINGENCY QUESTION, THAT IF THERE IS NO PARTICULAR -
11 - IF THE LEGISLATION DOES FAIL, THEN THERE IS ON THE
12 BOOKS AN EXTENSION THAT THEN HAS TO BE KIND OF DEALT
13 WITH. AND AN ARGUMENT COULD BE RAISED THAT THAT
14 EXTENSION IS VALID FOR VARIOUS TYPES OF ISSUES THAT
15 TAKE PLACE.

16 AND I DON'T THINK THAT THE BOARD WANTS
17 TO BE IN A POSITION, AS WE SIT HERE TODAY -- I WASN'T
18 AT THE JANUARY MEETING, I HEARD A LOT ABOUT IT. BUT,
19 I KNOW THAT THERE WAS EVEN MORE CONFIDENCE AT THAT
20 MEETING THAT THE DEPARTMENT OF INSURANCE WOULD APPROVE
21 THIS QUITE READILY, FROM WHAT I GATHER FROM THOSE
22 PEOPLE WHO ARE HERE.

23 AND WE FIND OURSELVES AGAIN EVEN -- WHAT

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1 I FEEL IS IN A MORE TREACHEROUS TERRITORY, THE
2 LEGISLATURE TRYING TO -- TRYING TO GATHER UP VOTES.
3 IF YOU'RE SO CONFIDENT, GET THE 54 VOTES, BRING IT
4 BACK, WE'RE DONE.

5 MR. CHANDLER: NOT TO CONFUSE THE MATTER, BUT
6 HERE'S ANOTHER OPTION PERHAPS, AS OPPOSED TO THIS
7 OVERLAPPING.

8 DEPUTY DIRECTOR RICE DID ISSUE A 60-DAY
9 NOTICE, AND SHE ISSUED IT ON NOVEMBER SOMETHING OF
10 1997. ONE OPTION WOULD BE FOR US TO SIMPLY EXTEND THE
11 EXTENSION THROUGH THE FATE OF THE LEGISLATION, BUT
12 FAILING THE LEGISLATION OR THE GOVERNOR'S SIGNATURE WE
13 REVERT TO THE APPLICABILITY OF THAT NOTIFICATION THAT
14 WAS ISSUED BACK IN NOVEMBER AND NOT TRY TO WORRY ABOUT
15 WHETHER OR NOT WE HAVE TO TODAY OR SOME FIVE DAYS FROM
16 NOW START THE 60-DAY CLOCK. FROM MY PERSPECTIVE,
17 FROM A STAFF PERSPECTIVE, THE 60-DAY CLOCK STARTED
18 BACK IN NOVEMBER.

19 NOW, THE BOARD GRANTED A SIX-MONTH
20 EXTENSION FOR THE DEPARTMENT OF INSURANCE NEGOTIATIONS
21 TO CONTINUE, BUT WE HAVE ISSUED A STATEMENT ASKING FOR
22 COMPLIANCE AND AN ALTERNATIVE MECHANISM TO BE POSTED.
23 AND MAYBE THE EASIEST WAY TO DO THAT IS TO SIMPLY

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1 ALLOW FOR THE EXTENSION FOR THE FATE OF THE AB 715 TO
2 PLAY ITSELF OUT. BUT, FAILING THAT, WE WOULD REVERT
3 BACK TO THE NOTIFICATION OF NOVEMBER.

4 CAN'T DO THAT?

5 CHAIRMAN PENNINGTON: SO THEN CAN WE SAY THAT
6 WE'LL EXTEND IT UNTIL WE HAVE A -- UNTIL THE FATE OF
7 THE LEGISLATION. AND IF IT FAILS THEY MUST BE IN
8 COMPLIANCE IN THREE WEEKS?

9 MR. CHANDLER: PURSUANT TO THE NOTIFICATION
10 THAT WAS ISSUED IN NOVEMBER OF 1997.

11 I KNOW THAT THAT NOTIFICATION IS, IN
12 EFFECT, OVERDUE, BECAUSE IT WAS ASKING FOR 60-DAY
13 COMPLIANCE AND WE'RE WELL PAST THAT. BUT I THINK THE
14 COUNTER-LEANING ARGUMENT THERE IS THAT IN THAT INTERIM
15 PERIOD THE BOARD GRANTED THE SIX-MONTH EXTENSION, SO.

16 CHAIRMAN PENNINGTON: LET ME TRY A MOTION AND
17 SEE HOW THIS FITS, AND THERE MAY BE SOME CHANGING.
18 I'LL MOVE THAT WASTE MANAGEMENT, INC., BE ALLOWED AN
19 EXTENSION TO CONTINUE USING NGIC INSURANCE TO
20 DEMONSTRATE FINANCIAL ASSURANCE. THIS EXTENSION WILL
21 BE IN PLACE UNTIL THE DISPOSITION OF LEGISLATION
22 PENDING IN THE CURRENT SESSION. IF THE LEGISLATION
23 FAILS, WASTE MANAGEMENT IS TO COME INTO COMPLIANCE BY

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1 USING ANOTHER ACCEPTABLE FINANCIAL ASSURANCE MECHANISM
2 WITHIN THREE WEEKS. IF THE LEGISLATION IS APPROVED,
3 WASTE MANAGEMENT IS TO WORK WITH BOARD STAFF TO COME
4 INTO COMPLIANCE IMMEDIATELY FOLLOWING THE EFFECTIVE
5 DATE OF THE LEGISLATION. ANY NEW PERMITS FILED PRIOR
6 TO THE APPROVAL OF THE LEGISLATION MUST USE ANOTHER
7 FINANCIAL MECHANISM OTHER THAN NGCI INSURANCE TO
8 DEMONSTRATE FINANCIAL ASSURANCE.

9 ME. CHANDLER: I WOULD SUPPORT THAT WITH ONE
10 CAVEAT. THAT WE WOULD ALSO REQUEST THAT YOU INSERT
11 THE SAME REQUIREMENT FOR ANY CLOSURE PLAN APPROVALS
12 THAT MAY BE -- THAT MAY IN THAT INTERVENING PERIOD
13 PASS ALONG. I DON'T ASSUME THAT'S NECESSARILY ON THE
14 BOOKS OR IN THE PLANS, BUT NOT ONLY SHOULD THOSE
15 CONDITIONS APPLY TO ANY NEW PERMITS BUT ANY NEW
16 CLOSURE PLAN APPROVALS THAT MAY COME FORWARD.

17 CHAIRMAN PENNINGTON: OKAY.

18 MEMBER FRAZEE: WITH THAT UNDERSTANDING I
19 WOULD SECOND THE MOTION. BUT I DO HAVE SOME COMMENTS.

20 CHAIRMAN PENNINGTON: OKAY. MR. FRAZEE?

21 MEMBER FRAZEE: JUST TWO ADDITIONAL COMMENTS
22 ON THIS ISSUE AND I IN SECONDING THE MOTION I'M
23 COMFORTABLE WITH THE 60 DAYS.

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1 BUT THERE'S MORE THAN ONE WAY TO SKIN A
2 CAT, AND WE CAN ACCOMPLISH ALL OF THIS BY MERELY
3 AMENDING OUR REGULATIONS TO ALLOW THIS ALSO. THAT'S
4 ANOTHER OPTION THAT WE HAVE. AND THAT WOULD AVOID THE
5 LEGISLATION -- IT WOULD AVOID THIS WHOLE ARGUMENT.

6 BUT, COUPLED WITH THAT IS COUNSEL'S
7 CAVEAT THAT WE NEED TO HAVE SOME MECHANISM TO REVIEW
8 NGIC. AND THEREIN LIES THE DIFFICULTY, IS ACHIEVING
9 THAT, BECAUSE I THINK IT'S FAIRLY EVIDENT THAT
10 CALIFORNIA DOI IS NOT INTERESTED IN DOING THAT.

11 AND THEN SO WHERE DO YOU GO? DO YOU GO
12 TO SOME PRIVATE AGENCY? DO YOU GO TO SOME OTHER STATE
13 THAT HAS CONDUCTED THAT REVIEW AND PUT OUR FAITH IN
14 SOME OTHER STATE'S DEPARTMENT OF INSURANCE?

15 AND THAT'S ONE THAT'S GOING TO FACE US
16 NO MATTER WHICH ROUTE WE TAKE, IS -- AND I WOULD LIKE
17 TO HAVE A LITTLE MORE DISCUSSION ON WHERE WE'RE GOING
18 WITH THAT ASPECT OF IT.

19 MEMBER EATON: I COULDN'T AGREE MORE, BECAUSE
20 I THINK MR. WHITE TOLD ME THIS IS -- THAT THE CURRENT
21 COMPANY IS A B-PLUS? WHAT NGIC RIGHT NOW, RATING C
22 BEST?

23 MR. WHITE: WE DON'T HAVE A RATING ACTUALLY

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1 RIGHT NOW. WE WOULD HAVE TO SECURE THAT RATING, AND
2 WE'RE FULLY COMMITTED TO SECURE THAT RATING. WE'VE
3 NEVER SOUGHT IT BECAUSE IT'S NOT REQUIRED, BUT WE'RE
4 WILLING TO COMMIT TO GETTING THAT B-PLUS OR BETTER.
5 WE BELIEVE WE CAN DO FAR BETTER THAN B-PLUS. B-PLUS
6 IS THE MINIMUM SECURED RATING.

7 MEMBER EATNON: ABSOLUTELY. I KNOW THAT. I
8 PRACTICED INSURANCE LAW, THAT'S WHY I ASKED.

9 BUT, YOU HAVE TO REALIZE, IT'S NOT
10 AGAINST WMX. THE ISSUE HERE IS ONE OF PRINCIPLE, AND
11 I'VE TALKED TO YOU ABOUT IT TIME AND TIME AGAIN. AND
12 I THINK THAT'S WHERE WE'VE GOT TO GO. AND I THINK
13 THAT IT'S A GREAT THING, BUT I DON'T PUT MUCH FAITH IN
14 SOME OF THE KINDS OF ACTIVITIES THAT HAVE TAKEN PLACE,
15 AS OTHERS HAVE, AND I THINK WE NEED TO PROTECT
16 OURSELVES.

17 IT'S NOTHING THAT YOU SHOULD BE AFRAID
18 OF, AS WELL. BUT I DO BELIEVE THAT IT IS IMPORTANT
19 FOR PUBLIC PERCEPTION, AS WELL AS FOR THE PUBLIC'S
20 BUSINESS. AND THE ISSUE IS NOT, AGAIN, WHETHER IT'S A
21 SAFE AND SECURE MECHANISM, IT'S WHAT CAN WORK FOR BOTH
22 PARTIES AND ANY OTHER PARTY THAT MIGHT COME BEFORE US.

23 MR. WHITE: BELIEVE ME, OUR INTERESTS ARE

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1 EXACTLY PARALLEL ON THAT. WE WANT TO HAVE A MECHANISM
2 THAT THIS BOARD FEELS VERY COMFORTABLE WITH, AND WE
3 BELIEVE WE CAN DELIVER THAT. UNFORTUNATELY, WE CAN'T
4 DO IT THROUGH THE DEPARTMENT OF INSURANCE BECAUSE
5 THEY'RE NOT SET UP TO REVIEW THIS TYPE OF MECHANISM.

6 CHAIRMAN PENNINGTON: OKAY. WE HAVE A MOTION
7 MOVED AND SECONDED. DO WE HAVE ANY FURTHER DISCUSSION
8 ON THE MOTION? DO YOU WANT TO HEAR IT AGAIN?

9 MEMBER EATON: I'M SORRY, I DIDN'T --

10 CHAIRMAN PENNINGTON: I SAY DOES ANYBODY WANT
11 TO HEAR IT AGAIN, OR --

12 MEMBER EATON: I THINK JUST ONE MORE TIME,
13 JUST FOR THE RECORD, JUST SO THAT WE'RE CLEAR. I KNOW
14 IT'S --

15 CHAIRMAN PENNINGTON: SURE. IT'S A LONG ONE
16 AND I.... OKAY. I MOVE THAT WASTE MANAGEMENT, INC.,
17 BE ALLOWED AN EXTENSION TO CONTINUE USING NGIC
18 INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCE. THIS
19 EXTENSION WILL BE IN PLACE UNTIL THE DISPOSITION OF
20 LEGISLATION PENDING DURING THE CURRENT SESSION. IF
21 THE LEGISLATION FAILS WASTE MANAGEMENT, INC., IS TO
22 COME INTO COMPLIANCE BY USING ANOTHER ACCEPTABLE
23 FINANCIAL ASSURANCE MECHANISM WITHIN THREE WEEKS. IF

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1 THE LEGISLATION IS APPROVED WASTE MANAGEMENT, INC., IS
2 TO WORK WITH BOARD STAFF TO COME INTO COMPLIANCE
3 IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE
4 LEGISLATION. ANY NEW PERMITS OR CLOSURE PLANS FILED
5 PRIOR TO THE APPROVAL OF THE LEGISLATION MUST USE
6 ANOTHER FINANCIAL MECHANISM OTHER THAN NGCI INSURANCE
7 TO DEMONSTRATE FINANCIAL ASSURANCE. OKAY?

8 MEMBER EATON: THANK YOU.

9 CHAIRMAN PENNINGTON: IF THERE'S NO FURTHER
10 DISCUSSION, WILL THE SECRETARY CALL THE ROLL?

11 THE SECRETARY: BOARD MEMBER EATON?

12 MEMBER EATON: AYE.

13 THE SECRETARY: FRAZEE?

14 MEMBER FRAZEE: AYE.

15 THE SECRETARY: JONES?

16 MEMBER JONES: AYE.

17 THE SECRETARY: CHAIRMAN PENNINGTON?

18 CHAIRMAN PENNINGTON: AYE.

19 THE MOTION CARRIES.

20 OKAY. LET'S SEE, WELL, IT LOOKS LIKE
21 WE'RE READY FOR LUNCH. OKAY. WE'LL RECESS TILL 1:30.

22 (WHEREUPON, THE LUNCHEON RECESS IS TAKEN.)

23 CHAIRMAN PENNINGTON: GOOD AFTERNOON. WE

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1 WILL COME BACK TO ORDER.

2 EX PARTE COMMUNICATIONS

3 CHAIRMAN PENNINGTON: FIRST WE'LL ASK IF
4 THERE'S ANY *EX PARTES*. I'LL START WITH MR. FRAZEE.

5 MEMBER FRAZEE: YES, MR. CHAIRMAN. HAD AN
6 EARLIER CONVERSATION WITH DENISE DELMATIER
7 REPRESENTING NORCAL, IN WHICH SHE PROVIDED MYSELF AND
8 I THINK OTHER MEMBERS SOME DOCUMENTS FROM THE COUNTY
9 OF SACRAMENTO REGARDING THEIR WASTE HAULING PLANS.

10 AND, SECOND, A CONVERSATION THAT JUST
11 OCCURRED REGARDING THE LEGISLATIVE ITEM THAT WE TOOK
12 UP EARLIER. AND I UNDERSTAND THAT WE'RE GOING TO OPEN
13 WITH THAT ITEM ALSO?

14 CHAIRMAN PENNINGTON: CORRECT.

15 OKAY. MEMBER EATON, ANY *EX PARTE*?

16 MEMBER EATON: JUST THE SAME THAT MR. FRAZEE
17 HAD MENTIONED WITH REGARD TO DENISE DELMATIER.

18 CHAIRMAN PENNINGTON: OKAY. AND MEMBER
19 JONES?

20 MEMBER JONES: WITH DENISE DELMATIER.

21 CHAIRMAN PENNINGTON: OKAY. I SPOKE WITH
22 DENISE, AND I ALSO SPOKE WITH CHUCK WHITE FOLLOWING
23 OUR DISCUSSION.

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1 MR. FRAZEE IS CORRECT. WE WILL GO BACK
2 -- I'M GOING TO TAKE UP ITEM 16 AND THEN WE'LL GO BACK
3 TO ITEM 8-B, IF OUR LEGE STAFF IS HERE. IF NOT, WE'LL
4 KEEP MOVING ON UNTIL WE GET THEM BACK UP HERE SO THAT
5 WE CAN GO BACK TO NUMBER EIGHT.

6 AGENDA ITEM NO. 16: CONSIDERATION OF A
7 STANDARDIZED COMPOSTING PERMIT FOR THE B&J DROP
8 BOX SANITARY LANDFILL COMPOSTING FACILITY,
9 SOLANO COUNTY

10 CHAIRMAN PENNINGTON: SO, ITEM 16,
11 CONSIDERATION OF STANDARDIZED COMPOSTING PERMIT FOR
12 THE B&J DROP BOX SANITARY LANDFILL IN SOLANO COUNTY.
13 DOROTHY RICE.

14 MS. RICE: THANK YOU, MR. CHAIRMAN AND
15 MEMBERS. BRIAN LARIMORE WILL MAKE THE STAFF
16 PRESENTATION, ASSISTED BY KEVIN CULLEN WITH THE LOCAL
17 ENFORCEMENT AGENCY.

18 MR. LARIMORE: GOOD AFTERNOON, MR. CHAIRMAN,
19 BOARD MEMBERS. THIS ITEM IS FOR A PROPOSED CHANGE
20 FROM A REGISTRATION PERMIT TO A STANDARDIZED PERMIT
21 FOR THE B&J DROP BOX SANITARY LANDFILL COMPOSTING
22 FACILITY.

23 THE SITE IS LOCATED IN AN UNINCORPORATED

1 AREA OF SOLANO COUNTY, ABOUT NINE MILES SOUTHEAST OF
2 VACAVILLE.

3 B&J DROP BOX, INCORPORATED, A SUBSIDIARY
4 OF NORCAL, IS THE OPERATOR AND LAND OWNER OF THE SITE.

5
6 THE FACILITY CURRENTLY USES A WITHIN-
7 VESSEL PROCESS TO COMPOST GREEN MATERIALS. ORGANIC
8 MATERIAL IS PLACED IN LARGE PLASTIC BAGS WITH THE HELP
9 OF A BAGGING MACHINE. THE MATERIAL IS AERATED BY
10 SUPPLYING AIR WITH AN ELECTRIC BLOWER THROUGH
11 PERFORATED PIPE THAT RUNS THE LENGTH OF THE BAG.

12 THE OPERATOR PROPOSES TO INCREASE THE
13 PERMITTED VOLUME OF MATERIAL FROM 10,000 CUBIC YARDS
14 OF ACTIVE COMPOST AND FEED STOCK TO 35,000 CUBIC YARDS
15 OF MATERIAL UNDERGOING THE COMPOSTING PROCESS AND TO
16 ADD ANIMAL MATERIAL AND WASTE WATER TREATMENT SLUDGE
17 FEED STOCKS.

18 THE ANIMAL MATERIALS TO BE COMPOSTED
19 INCLUDE RESTAURANT MATERIALS, SPECIFICALLY THE ANIMAL
20 FRACTION OF RESTAURANT WASTE AND OTHER FOOD
21 PREPARATION AND POST-CONSUMER WASTE.

22 AT THE TIME THE AGENDA ITEM WAS
23 PREPARED, THE LEAD AGENCY HAD SUBMITTED SUPPORTING

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1 CEQA DOCUMENTATION FOR THE USE OF GREEN MATERIAL AND
2 WASTE WATER TREATMENT SLUDGE, BUT NOT FOR ANIMAL
3 MATERIAL.

4 BOARD STAFF IS NOW PREPARED TO MAKE A
5 RECOMMENDATION BASED ON THE FOLLOWING BOARD AND LEA
6 FINDINGS.

7 ONE, SOLANO COUNTY HAS AN APPROVED
8 INTEGRATED WASTE MANAGEMENT PLAN AND THE BOARD'S
9 OFFICE OF LOCAL ASSISTANCE HAS DETERMINED THAT THE
10 PROPOSED FACILITY IS IN CONFORMANCE WITH THE PLAN.

11 TWO, THE LEA, LEAD AGENCY FOR CEQA,
12 PREPARED AN ADDENDUM TO THE NEGATIVE DECLARATION THAT
13 ADDRESSES THE USE OF ANIMAL MATERIAL FEED STOCK.
14 PURSUANT TO SECTION 15.162 OF THE CEQA GUIDELINES,
15 PREPARATION OF A NEW EIR OR NEGATIVE DECLARATION IS
16 NOT REQUIRED AND THE PROJECT IS IN COMPLIANCE WITH
17 CEQA.

18 THREE, THE PROPOSED PERMIT IS CONSISTENT
19 WITH CEQA AND THE STANDARDS ADOPTED BY THE BOARD.

20 AND NUMBER FOUR, THE FACILITY, AS
21 DESCRIBED IN THE RCSI, IS EXPECTED TO OPERATE IN
22 COMPLIANCE WITH STATE MINIMUM STANDARDS.

23 IN CONCLUSION, STAFF HAS REVIEWED THE

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1 PROPOSED PERMIT AND SUPPORTING DOCUMENTATION AND FOUND
2 THEM ACCEPTABLE. STAFF RECOMMENDS THAT THE BOARD
3 ADOPT RESOLUTION NO. 98-261, CONCURRING IN THE
4 ISSUANCE OF SOLID WASTE FACILITIES PERMIT NO.
5 48AA0083.

6 REPRESENTATIONS OF THE LEA AND OPERATOR
7 ARE HERE IF YOU HAVE ANY QUESTIONS.

8 CHAIRMAN PENNINGTON: MR. FRAZEE, ANY
9 QUESTIONS?

10 MEMBER FRAZEE: NO, NONE.

11 CHAIRMAN PENNINGTON: MEMBER EATON?

12 MEMBER EATON: NO, SIR.

13 CHAIRMAN PENNINGTON: MEMBER JONES?

14 MEMBER JONES: JUST ONE QUICK ONE. THE
15 35,000 CUBIC YARDS WHICH IS IN THE BAGS, AND THEN THE
16 ON-SITE FEED STOCK, YOU'VE GOT SOME KIND OF AN
17 ARRANGEMENT AS FAR AS HOW MUCH MATERIAL WILL BE ON
18 SITE FOR FEED STOCK PREPARATION?

19 MR. CULLEN: YES, WE DO.

20 MEMBER JONES: THAT'S FINE.

21 MR. CULLEN: AND I THINK THE NUMBER IS 35,000
22 PER YEAR.

23 MEMBER JONES: THAT'S FINE. BUT, I MEAN,

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1 YOU'VE GOT IT -- YOU'VE ALREADY GOT THAT WORKED OUT.

2 BECAUSE -- OKAY. I DON'T HAVE ANY PROBLEM WITH THAT.

3 MR. CULLEN: MY NAME IS KEVIN CULLEN, BY THE
4 WAY. AND I WORK FOR SOLANO COUNTY.

5 MEMBER JONES: I DON'T HAVE ANY PROBLEM WITH
6 THAT, THIS LOOKS PRETTY GOOD.

7 CHAIRMAN PENNINGTON: OKAY. I'LL ENTERTAIN A
8 MOTION.

9 MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A
10 MOTION TO MOVE RESOLUTION 98-261, CONSIDERATION OF A
11 STANDARDIZED COMPOSTING PERMIT FOR THE B&J DROP BOX
12 SANITARY LANDFILL.

13 MEMBER FRAZEE: I'LL SECOND.

14 CHAIRMAN PENNINGTON: IT HAS BEEN MOVED AND
15 SECONDED. IF THERE'S NO FURTHER DISCUSSION, WILL THE
16 SECRETARY CALL THE ROLL?

17 THE SECRETARY: BOARD MEMBER EATON?

18 MEMBER EATON: AYE.

19 THE SECRETARY: FRAZEE?

20 MEMBER FRAZEE: AYE.

21 THE SECRETARY: JONES?

22 MEMBER JONES: AYE.

23 THE SECRETARY: CHAIRMAN PENNINGTON?

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1 CHAIRMAN PENNINGTON: AYE

2 OKAY. I'M GOING TO MOVE ON TO ITEM 17 -
3 - THE MOTION CARRIES, INCIDENTALLY.

4 AGENDA ITEM NO. 17: CONSIDERATION OF COMPLIANCE

5 BY OXFORD TIRE RECYCLING WITH ENFORCEMENT

6 ORDER NO. 98-26

7 CHAIRMAN PENNINGTON: I'LL MOVE ON TO ITEM
8 17, CONSIDERATION OF COMPLIANCE OF OXFORD TIRE
9 RECYCLING WITH ENFORCEMENT ORDER NO. 98-26. DOROTHY
10 RICE, BOB ANDERSON.

11 MS. RICE: THANK YOU, MR. CHAIRMAN AND
12 MEMBERS. WE'D LIKE TO GIVE A BRIEF STAFF PRESENTATION
13 GOING OVER A NUMBER OF ISSUES JUST TO MAKE SURE ALL
14 THE ISSUES ARE COVERED, AND ALSO AT THE SAME TIME
15 MAKING AN EFFORT NOT TO REPEAT ITEMS THAT WE PRESENTED
16 TO YOU AT THE BOARD MEETING LAST MONTH, IN JUNE,
17 BECAUSE IN SOME AREAS THE STATUS HAS NOT SIGNIFICANTLY
18 CHANGED.

19 THE MAIN PURPOSE OF THE TIME THAT WE'RE
20 BRINGING TO YOU TODAY IS TO BRING FORWARD A STAFF
21 RECOMMENDATION FOR BOARD ACTION ON THE OXFORD TIRE
22 RECYCLING FACILITY CLOSURE PLAN. SO THAT'S THE MAIN
23 POINT OF THE PRESENTATION TODAY.

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1 BUT BEFORE WE GET TO THAT, WE THOUGHT
2 THAT UPDATES ON A NUMBER OF ISSUES MIGHT BE TIMELY.
3 SO, BERNIE VLACH WILL BEGIN WITH A BRIEF OVERVIEW OF
4 SOME OF THE ISSUES. GARTH ADAMS WILL GO INTO A LITTLE
5 MORE DETAIL ON THE FINANCIAL ASSURANCES ISSUES. BOB
6 ANDERSON WILL PRESENT INFORMATION ON OUR MOST RECENT
7 ESTIMATE OF THE TIRE PILE SIZE, AND ALSO THE STATUS OF
8 REMEDICATION AT THAT SITE. BERNIE WILL THEN DISCUSS
9 THE STATUS OF THE CLOSURE PLAN AND STAFF'S
10 RECOMMENDATION REGARDING ACTION BY THE BOARD ON THAT
11 CLOSURE PLAN. AND LASTLY, WE'LL TURN IT OVER TO THE
12 LEGAL OFFICE FOR A BRIEF DISCUSSION OF LAND OWNER
13 LIABILITY ISSUES.

14 AND, WITH THAT I'D LIKE TO TURN IT OVER
15 TO BERNIE TO BEGIN WITH A BRIEF OVERVIEW OF ALL THE
16 ISSUES. THANK YOU.

17 MR. VLACH: GOOD AFTERNOON, MR. CHAIRMAN AND
18 MEMBERS OF THE BOARD. MY NAME IS BERNIE VLACH, BOARD
19 STAFF. WE HAVE, AS DOROTHY MENTIONED, SEVERAL STAFF
20 HERE TO UPDATE YOU ON THE PROGRESS THAT OXFORD TIRE
21 RECYCLING OF NORTHERN CALIFORNIA IS MAKING TOWARDS
22 REMEDICATION OF THEIR OXFORD TIRE PILES IN WESTLEY,
23 CALIFORNIA.

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1 SINCE THE BOARD HAS HEARD THIS ITEM IN
2 JUNE IN SAN RAFAEL THERE HAVE BEEN SOME CHANGES. AND
3 THE AREAS THAT WE WISH TO UPDATE YOU INCLUDE THE
4 STATUS OF THE FINANCIAL ASSURANCE MECHANISM, THEN
5 THERE'S NEW INFORMATION RELATING TO THE STAFF WORK TO
6 GET A MORE ACCURATE ASSESSMENT OF THE NUMBER OF WASTE
7 TIRES REMAINING AT THE FACILITY, AND ALSO TO GIVE YOU
8 NEW INFORMATION OR AT LEAST AN UPDATE ON THE
9 OPERATOR'S EFFORTS TO REMEDIATE THE TIRES THAT ARE
10 EXISTING AT THE FACILITY. AND THEN, LASTLY, STAFF HAS
11 A RECOMMENDATION CONCERNING THE CLOSURE PLAN THAT WAS
12 REQUIRED UNDER CLEANUP AND ABATEMENT ORDER 98-26.

13 SO IF THERE ARE NO QUESTIONS AT THIS
14 TIME WE COULD LET GARTH ADAMS MAKE THE UPDATE ON THE
15 FINANCIAL ASSURANCE MECHANISM.

16 CHAIRMAN PENNINGTON: OKAY.

17 MR. ADAMS: I DON'T KNOW THAT THERE'S A LOT
18 OF NEW NEWS ON THE FINANCIAL ASSURANCE STATUS OF THE
19 SITE, BUT WE WILL RUN THROUGH IT REAL QUICK AS A
20 REMINDER AS TO WHERE WE'RE AT, AT THE MOMENT.

21 YOU MAY RECALL THAT THE PERMIT AND THE
22 AGREEMENT THAT OXFORD HAS WITH THE BOARD REQUIRES THAT
23 THEY MAINTAIN THEIR \$1 MILLION FINANCIAL ASSURANCES TO

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1 THE BOARD, AND IT HAS BEEN IN THE FORM OF INSURANCE.
2 AND THEY HAVE CANCELED THE INSURANCE POLICY BECAUSE OF
3 THE LACK OF PAYMENT -- THIS IS THE INSURER CANCELING
4 BECAUSE OF LACK OF PAYMENT. AND THE REGS GIVE THE
5 BOARD BASICALLY 120 DAYS TO ACT UPON THAT POLICY. AND
6 THE 120 DAYS FROM THE DATE OF CANCELLATION ENDS UP
7 BEING AROUND SEPTEMBER 27 THAT THAT POLICY TURNS INTO
8 A PUMPKIN AND IS NO LONGER AVAILABLE TO THE BOARD FOR
9 -- TO ACCESS OR TO UTILIZE FORECLOSURE OF THE SITE.
10 AND I THINK THAT'S PRETTY MUCH THE STATUS OF THAT ONE.

11 AND WE CURRENTLY HAVE ASKED THE INSURER
12 FOR A COPY OF THE POLICY TO CHECK ON THE PROCESS AND
13 PROCEDURES FOR DRAWING ON IT.

14 AND RICHARD CASTLE -- WHO WAS PROBABLY
15 GOING TO BE DOING THIS HAS FALLEN ILL. HE WAS
16 ACTUALLY ILL THIS MORNING, BUT HE WANTED TO STAY FOR
17 THE WASTE MANAGEMENT ITEM -- HAD INDICATED THAT THE
18 OPERATING LIABILITY POLICY ALSO ON THIS SITE IS BEING
19 -- WILL BE CANCELED PROBABLY WITHIN TWO DAYS. THERE'S
20 A CANCELLATION NOTICE ON THAT AS WELL.

21 MEMBER EATON: WITHIN TWO DAYS?

22 MR. ADAMS: THERE'S A 10-DAY CANCELLATION ON
23 THAT ONE, SO THAT ONE'S BASICALLY GONE SOUTH AS WELL.

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1 AND THAT WOULD BE ENVIRONMENTAL IMPAIRMENT INSURANCE.

2 MEMBER JONES: MR. CHAIRMAN?

3 CHAIRMAN PENNINGTON: YES, MEMBER JONES?

4 MEMBER JONES: I THINK THIS IS A GOOD
5 PRESENTATION. THEY HAVEN'T MADE A PAYMENT ON THE
6 INSURANCE. I HAVE JUST ONE QUICK QUESTION, AND MAYBE
7 WE CAN CUT TO A MOTION.

8 HAVE WE SEEN A CLOSURE PLAN UPDATED THAT
9 WAS DUE ON JULY 19TH OR JULY 10TH? DID IT COME TO US?

10 MS. RICE: YEAH, WE WERE GOING TO GO INTO
11 THAT IN A LITTLE BIT. BUT, NO, WE HAVE NOT.

12 MEMBER JONES: A SIMPLE YES OR NO.

13 MS. RICE: NO.

14 MEMBER JONES: NO. OKAY.

15 I DON'T KNOW IF ANYBODY ELSE WANTS TO
16 HEAR MORE. I'M READY TO MAKE A RESOLUTION TO PULL
17 THIS PERMIT, START THE PROCESS. THIS HAS GONE ON LONG
18 ENOUGH.

19 CHAIRMAN PENNINGTON: WELL, I THINK IT HAS,
20 TOO. I DON'T KNOW WHETHER THERE ARE SOME IMPORTANT
21 THINGS THAT STAFF WANTS TO GET ACROSS TO US, THOUGH,
22 BEFORE --

23 MS. RICE: I THINK IN THE INTEREST OF A

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1 RECORD --

2 MEMBER JONES: YEAH, BUT I'VE HEARD -- YOU
3 KNOW, WE'VE ALL HEARD THIS LIKE EVERY MONTH FOR THE
4 LAST TWO YEARS --

5 MEMBER EATON: IT HASN'T BEEN CALLED A RECORD
6 IN A LONG TIME, IT'S A CD.

7 MEMBER JONES: IT IS A LONG-PLAYING RECORD.

8 CHAIRMAN PENNINGTON: I THINK WE ALL AGREE
9 WITH THAT, BUT --

10 MS. TOBIAS: MEMBER EATON POINTED OUT THAT
11 IT'S NO LONGER A RECORD BUT A CD. BUT, ACTUALLY THIS
12 IS A RECORD, AND I DO THINK THAT IT WOULD BE A GOOD
13 IDEA IF STAFF HAS ANYTHING ELSE TO PUT ON THE RECORD,
14 AND THEN WE CAN GO FROM THERE.

15 MS. DELMATIER: WELL, I THINK THE MOST
16 IMPORTANT THING FOR US WAS TO GET ACTION BY THE BOARD
17 ON THE CLOSURE PLAN, WHICH WE HAVE REVIEWED AND WHICH
18 WE FIND INADEQUATE, AND WE HAVE PREPARED A RESOLUTION
19 WHICH I BELIEVE WAS DISTRIBUTED TO BOARD MEMBERS
20 YESTERDAY AND IS AVAILABLE -- COPIES AT THE BACK OF
21 THE ROOM CONCERNING THAT ACTION.

22 AND OTR, JUST FOR A LITTLE BIT OF
23 BACKGROUND, RECEIVED A LETTER FROM US -- WHAT, IN MAY?

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1 -- GOING OVER WHAT WE PERCEIVED TO BE THE
2 INADEQUACIES IN THEIR CLOSURE PLAN. WE GAVE THEM 60
3 DAYS TO PROVIDE US WITH UPDATED INFORMATION. WE HAVE
4 NOT RECEIVED ANYTHING FROM THEM, AND WE UNDERSTAND
5 THEY DO NOT INTEND TO SUBMIT ANYTHING. THEY ALSO DID
6 NOT CONTEST THE INADEQUACIES THAT WE DESCRIBED.

7 BASED ON THAT AND THE INFORMATION THAT
8 WE PROVIDED THEM AND THE OPPORTUNITY TO CORRECT, WE
9 ARE RECOMMENDING DISAPPROVAL OF THE CLOSURE PLAN AS
10 SUBMITTED BY OXFORD TIRE.

11 CHAIRMAN PENNINGTON: WELL, I'LL BE HAPPY TO
12 MOVE ADOPTION OF RESOLUTION 98-251, WHICH IS A
13 CONSIDERATION OF THE COMPLIANCE BY OXFORD TIRE
14 RECYCLING ENFORCEMENT ORDER. IS THAT THE RIGHT ONE?

15 MR. VLACH: YES, THAT'S CORRECT.

16 MR. CHANDLER: THE ONLY OTHER INFORMATION
17 THAT MIGHT BE GERMANE TO WHY WE FEEL THE CLOSURE PLAN
18 IS INADEQUATE IS WE FEEL WE HAVE A MUCH MORE ACCURATE
19 ASSESSMENT OF THE NUMBER OF TIRES OUT THERE. AND BOB
20 ANDERSON IS AVAILABLE, SHOULD YOU WISH TO ASK ANY
21 QUESTIONS IN THAT REGARD, TO GIVE YOU WHAT WE THINK IS
22 THE -- NOW THE CURRENT ASSESSMENT OF THE NUMBER OF
23 TIRES OUT THERE.

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1 BECAUSE, AS YOU KNOW, THE NUMBER OF
2 TIRES IS A FUNCTION OF COST, AND IF THE FUNCTION OF
3 COST IS WHAT THEY WERE REPRESENTING WOULD BE HOW THEY
4 WOULD CLOSE THE SITE GIVEN THE NUMBER OF TIRES, AND
5 IT'S THAT THAT WE FEEL IS INADEQUATE IN THE PLAN. AND
6 AGAIN, IT ALL TIES BACK TO WHAT WE THINK IS A MORE
7 ACCURATE ASSESSMENT OF THE NUMBER OF TIRES OUT THERE,
8 INCLUDING THE OVERSIZE.

9 SO, I'M SURE WE'RE PREPARED TO TAKE THE
10 MOTION NOW, OR IF YOU WISH TO HEAR A LITTLE BIT MORE
11 ON THE QUANTITY OF TIRES AT THE SITE WE COULD ALLOW
12 STAFF TO MAKE THAT BRIEF PRESENTATION, AS WELL.

13 CHAIRMAN PENNINGTON: IT'S FINE TO LET --

14 MR CHANDLER: BOB, WHY DON'T YOU JUST --
15 WE'LL BE BRIEF, BUT JUST GET TO THE CONCLUSION OF THE
16 SOMAS WORK.

17 MR. ANDERSON: THANK YOU. I'M BOB ANDERSON
18 WITH THE REMEDIATION CLOSURE TECHNICAL SERVICES
19 BRANCH.

20 AND IN MAY OF THIS YEAR WE FINISHED THE
21 40,000 TON PROJECT UNDER THE WASTE MANAGEMENT BOARD
22 AGREEMENT AND RESURVEYED THE SITE, THE OXFORD TIRE
23 PILE SITE. AND IN EARLY JULY WE RECEIVED INFORMATION

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1 FROM SOMAS ASSOCIATES, THE SURVEYORS, THAT ACTUALLY
2 GAVE US VOLUMETRIC ESTIMATES OF THE REMAINING TIRES ON
3 SITE. FROM THAT, WE CONVERTED THAT INTO TONNAGE.

4 AND AS OF MAY 18TH, 1998, WE ESTIMATED
5 THERE WERE 61,000 TONS STILL ON SITE. AND WE HAD A
6 SLIGHT BURN-OVER SINCE WE HAD ADDITIONAL FUNDS LEFT
7 OVER TO BURN OVER INTO JUNE 6TH. THAT BROUGHT US DOWN
8 TO 59,000 TONS, OF WHICH ABOUT 7500 TONS ARE GIANT
9 TIRES, TIRES OVER 52 INCHES ACROSS AND/OR OVER 19
10 INCHES THICK. AND WE SENT THAT INFORMATION ON TO BOTH
11 MR. ED FILBIN AND ALSO TO MICHAEL BURNS ON JULY 14TH.

12 AND THAT'S ALL I HAVE. I'LL TAKE ANY
13 QUESTIONS.

14 CHAIRMAN PENNINGTON: 75 -- WHAT WAS THE
15 OTHER --

16 MR. ANDERSON: 7500 TONS OF GIANT TIRES AND
17 ABOUT -- OUT OF THE 59,000 TONS TOTAL ON SITE. AND
18 THAT WOULD LEAVE YOU WITH ABOUT 52,000 TONS OF
19 PASSENGER TIRE EQUIVALENTS.

20 CHAIRMAN PENNINGTON: WHICH EQUATES TO ABOUT
21 --

22 MR. ANDERSON: ABOUT FIVE-POINT-TWO MILLION -
23 -

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1 CHAIRMAN PENNINGTON: -- PASSENGER TIRES.

2 CORRECT?

3 MR. ANDERSON: UNDER THE NUMBERING SYSTEM
4 WE'VE BEEN USING, YES.

5 CHAIRMAN PENNINGTON: MR. FRAZEE.

6 MEMBER FRAZEE: YES. THAT INCLUDES ONLY THE
7 TIRES WITHIN THE LEASEHOLD, NOT THE SO-CALLED FILBIN
8 TIRES THAT ARE OUTSIDE THE LEASEHOLD, IS THAT CORRECT?

9 MR. ANDERSON: ACTUALLY, SIR, THIS INCLUDES
10 ALL THE TIRES EXCLUSIVE OF THE MELP TRANSIT TIRE AREA.

11 MEMBER FRAZEE: OH, IT DOES?

12 MR. ANDERSON: YES. BECAUSE IF YOU LOOK AT
13 THE DIAGRAMS THAT WERE PROVIDED BY SOMAS, IT TURNS OUT
14 TO BE -- THERE ARE NO REMAINING TIRES SOUTH OF THE
15 PRODUCT-91 PROPERTY BOUNDARY LINE. THEREFORE, ALL THE
16 TIRES ARE INCLUDED IN THE PERMIT FOR OTR, EXCLUSIVE OF
17 MELP. NOW, THAT WAS AN INACCURACY THAT MR. BURNS HAD
18 COMMUNICATED TO THE BOARD IN SAN RAFAEL. AND MAYBE HE
19 JUST SHOT HIS ARROW WRONG OR WHATEVER, AND HE
20 SAID....

21 MEMBER EATON: SO THERE ARE NO TIRES
22 REMAINING OUTSIDE OF THE PERMIT AREA. IS THAT
23 CORRECT?

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1 MR. ANDERSON: OF THE SOUTHERN BOUNDARY AREA.
2 THERE ARE TIRES OUTSIDE THE PRODUCT-91 BOUNDARY AREA,
3 BUT THEY ARE INCLUDED WITHIN THE OTR PERMIT ISSUED BY
4 THE WASTE MANAGEMENT BOARD.

5 CHAIRMAN PENNINGTON: OKAY.

6 MEMBER JONES: MR. CHAIRMAN, MAY I...?

7 CHAIRMAN PENNINGTON: CERTAINLY.

8 MEMBER JONES: I WANT TO ASK LEGAL, AND I
9 APOLOGIZE FOR RUSHING, THIS JUST KIND OF -- I'VE HAD
10 IT UP TO MY EYEBALLS ON THIS ONE, SO I APOLOGIZE.

11 AND, BY THE WAY, MR. BURNS DID SAY THAT
12 HE COULD NOT MAKE IT TODAY, HE HAD OTHER THINGS. BUT
13 THAT THEY UNDERSTOOD WHAT THIS ACTION WAS GOING TO BE.

14 THE NAME MR. FILBIN CAME UP, AND I'M
15 ASSUMING THAT AT SOMETIME WE'RE GOING TO HAVE A
16 DISCUSSION ABOUT LAND OWNER RESPONSIBILITY?

17 MS. TOBIAS: TODAY IN CLOSED SESSION.

18 MEMBER JONES: GREAT. OKAY.

19 MR. CHANDLER: BOB, DID YOU MENTION WHAT
20 PROGRESS, IF ANY, HAS BEEN MADE UNDER THE AGREEMENT TO
21 REMEDiate THE SITE IN 14 MONTHS THAT THE BOARD ENTERED
22 INTO WITH OTR?

23 MR. ANDERSON: NO, SIR, I DIDN'T. WHAT WE

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1 HAVE TO DATE, FROM MAY 18TH, 1998, THE START OF THE
2 OTR AGREEMENT WITH THE WASTE BOARD, THEY REMOVED 20
3 TONS FROM THE SITE, AS WAS REPORTED IN SAN RAFAEL.
4 THEY HAVE MADE NO FURTHER EFFORT TO DO ANY OTHER
5 ADDITIONAL WORK OUT THERE.

6 WE DO HAVE A SURVEY TEAM OUT THERE,
7 SUPPOSEDLY, TODAY TO DIVIDE THE PILE INTO 12 EQUAL
8 VOLUMETRIC LANES OR SECTIONS.

9 MR. CHANDLER: SO WHAT MONTH ARE WE IN?

10 MR. ANDERSON: WE JUST STARTED MONTH NUMBER
11 THREE OF THE 14 MONTHS.

12 MR. CHANDLER: OKAY. SO WE'RE ABOUT 20
13 PERCENT INTO THE TIME FRAME, SO.

14 MR. ANDERSON: SOMETHING LIKE THAT.

15 MR. CHANDLER: OKAY.

16 CHAIRMAN PENNINGTON: WELL, I'VE MOVED
17 RESOLUTION 98-251, WHICH IS THE CRUX OF WHAT WE'RE
18 TRYING TO GET AT. I'M SURE THAT SOMEONE WOULD LIKE TO
19 SECOND THAT.

20 MEMBER JONES: I THINK MR. FRAZEE DID.

21 MEMBER FRAZEE: I THINK I DID.

22 CHAIRMAN PENNINGTON: OKAY. I'M SORRY. SO
23 IF THERE'S NO FURTHER DISCUSSION, WILL THE SECRETARY

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1 CALL THE ROLL?

2 THE SECRETARY: BOARD MEMBER EATON?

3 MEMBER EATON: AYE.

4 THE SECRETARY: FRAZEE?

5 MEMBER FRAZEE: AYE.

6 THE SECRETARY: JONES?

7 MEMBER JONES: AYE.

8 THE SECRETARY: CHAIRMAN PENNINGTON?

9 CHAIRMAN PENNINGTON: AYE.

10 THE MOTION CARRIES.

11 MS. TOBIAS: MR. PENNINGTON, I THINK THE
12 BOARD MEMBERS ARE AWARE THAT WE HAVE ISSUED AN ORDER
13 THAT WOULD REVOKE THAT PERMIT. THAT HEARING IS
14 SCHEDULED FOR MONDAY, AUGUST 24TH, AT 2:00 P.M., AS A
15 SPECIAL BOARD MEETING.

16 CHAIRMAN PENNINGTON: OKAY. WELL, I'M SURE
17 WE'LL ALL BE THERE.

18 MEMBER JONES: WE NEED TO, WE NEED FOUR
19 VOTES.

20 AGENDA ITEM NO. 8-B: CONSIDERATION OF STATE
21 LEGISLATION - AB 2521 (WAYNE) -- (RESUMED)

22 CHAIRMAN PENNINGTON: OKAY. WE'RE GOING TO
23 MOVE BACK TO ITEM NO. 8-B, WHICH IS THE CONSIDERATION

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1 OF STATE LEGISLATION, AB 2521, WITH WAYNE WE DID TAKE
2 ACTION ON THIS, BUT I THINK WE NEED TO MOVE BACK
3 BECAUSE I THIS THERE'S SOME MISUNDERSTANDING ABOUT
4 WHAT THE AMENDMENT DOES. SO, I'D LIKE TO ASK THAT
5 PATTY ZWARTS COME FORWARD AND --

6 MEMBER JONES: MR. CHAIRMAN?

7 CHAIRMAN PENNINGTON: YES, MEMBER JONES?

8 MEMBER JONES: AS SHE'S WALKING FORWARD, IN A
9 PART OF MY *EX PARTE* WAS A BRIEF DISCUSSION I HAD WITH
10 DENISE, AND I ASKED HER WHAT THE TECHNICAL AND/OR
11 LANGUAGE WAS, AND IT APPEARS TO ME THAT IT IS PRETTY
12 CRITICAL.

13 AND I THINK OUR MOTION WAS SUPPORT --
14 BECAUSE IT WAS AMENDED, RIGHT?

15 CHAIRMAN PENNINGTON: CORRECT.

16 MEMBER JONES: I THINK IT WAS JUST SUPPORT.

17 CHAIRMAN PENNINGTON: CORRECT.

18 MEMBER JONES: BUT I THINK THAT THE LANGUAGE
19 IN QUESTION REFERS, FROM 45-017 REFERS BACK TO 44-005,
20 AND IT LISTS THE WAIVING OF YOUR RIGHTS, BASICALLY ARE
21 -- WAIVING OF A STAY UNDER THE CEASE AND DESIST, AND
22 WHILE ONE AND TWO ARE FINE -- OR, TWO SAYS WITHOUT A
23 SOLID WASTE FACILITY PERMIT, OBVIOUSLY, YOU'VE WAIVED

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1 YOUR STAY.

2 AND THEN THE PART IN QUESTION IS NUMBER
3 THREE, IT SAYS "IN A MANNER THAT CAUSES OR THREATENS
4 TO CAUSE A CONDITION, HAZARD, POLLUTION," AND THEN THE
5 KEY WORD HERE IS, "OR NUISANCE SHALL, UPON ORDER OF
6 THE ENFORCEMENT AGENCY, CEASE AND DESIST ANY IMPROPER
7 ACTION."

8 THE PROBLEM WITH THAT AND/OR IS THAT IT
9 SHOULD SAY "HAZARD, POLLUTION AND NUISANCE." BECAUSE,
10 WHILE IT IS REFERRING BACK TO NON-PERMITTED FACILITIES
11 IN THE FIRST PART OF THAT SECTION, THIS CAN BE
12 INTERPRETED TO BE ANY PERMITTED FACILITY, ANY
13 FACILITY, AND A NUISANCE CAN BE SOMETHING THAT IS VERY
14 SUBJECTIVE. IT IS AN OPINION AS TO IS LITTER BLOWING
15 ACROSS THE ROAD ONCE A MONTH A NUISANCE? SURE IT IS,
16 IF THERE'S SOMEBODY ON THE OTHER SIDE OF THE ROAD.

17 DOES AN OPERATOR HAVE THE RIGHT -- OR,
18 DO WE WANT TO PUT THE OPERATOR IN A POSITION WHERE HE
19 HAS WAIVED ANY STAY ON A CEASE AND DESIST ORDER ON
20 THAT KIND OF AN ITEM? I DON'T THINK THAT'S THE
21 INTENT. YOU KNOW, THAT WASN'T MY INTENT WHEN I
22 THOUGHT THIS WAS JUST A TECHNICAL ISSUE.

23 I THINK "AND" OR "OR" IN THIS CASE HAS A

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1 LOT OF WEIGHT WITH IT, AND THAT'S WHY I ASKED IF THE
2 ITEM WOULD COME BACK, MR. CHAIRMAN.

3 CHAIRMAN PENNINGTON: DO YOU WANT TO RESPOND
4 TO THAT?

5 MS. ZWARTS: YES, IF I COULD. YOU'RE
6 CORRECT, CHANGING IT FROM AN "AND" TO "OR" DOES
7 BROADEN THE BILL, AND THAT WAS WHEN WE -- WHEN IT WAS
8 POINTED OUT THAT THE AUTHOR'S OFFICE HAD INDICATED --
9 THE SPONSOR INDICATED THAT'S WHAT THEIR INTENT WAS.
10 AND SO THAT'S WHY THE COMMITTEE WENT THAT WAY, TO
11 CHANGE IT FROM "AND" TO "OR."

12 AND I HAD A CHANCE TO TALK TO SOME FOLKS
13 IN THE BACK, TOO, THAT THAT WASN'T WHAT THEIR READ OF
14 IT WAS, AS WELL.

15 BUT, YOU'RE CORRECT IN YOUR READ, MEMBER
16 JONES, THAT BOTH CONDITIONS -- OR, EITHER CONDITION
17 WITH THIS AMENDMENT COULD BE PRESENT IN THE CASE WHERE
18 A CEASE AND DESIST ORDER IS NOT STAYED.

19 CHAIRMAN PENNINGTON: SO THAT MEANS THAT WE
20 PROBABLY WANT TO TAKE A DIFFERENT POSITION ON THIS
21 BILL. CORRECT?

22 MS. ZWARTS: IF IT IS THE BOARD'S WISH TO
23 HAVE A NARROWER INTERPRETATION OF IT, THAT TWO

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1 CONDITIONS SHOULD EXIST BEFORE AN ORDER IS STAYED,
2 THEN YOU WOULD NEED TO ASK FOR AN "AND." IF YOU WOULD
3 LIKE A BROADER INTERPRETATION, MEANING THAT EITHER/OR
4 OF THE TWO CONDITIONS COULD EXIST, THEN YOU WOULD NEED
5 TO -- THEN THE BOARD ACTION WOULD STAND. DOES THAT
6 HELP?

7 CHAIRMAN PENNINGTON: WE HAVE A COUPLE OF
8 PEOPLE IN THE AUDIENCE THAT WOULD LIKE TO ADDRESS THIS
9 ISSUE, AS WELL. SO LET ME CALL ON DENISE DELMATIER.

10 MS. DELMATIER: MR. CHAIRMAN AND MEMBERS OF
11 THE BOARD, DENISE DELMATIER ON BEHALF OF NORCAL WASTE
12 SYSTEMS. I APPRECIATE THE OPPORTUNITY TO ADDRESS YOU
13 ON THIS ISSUE. UNFORTUNATELY, I WAS OUT OF THE ROOM
14 WHEN THIS ITEM WAS TAKEN UP, AND I APOLOGIZE FOR THAT
15 ABSENCE.

16 AT THE LEGISLATIVE COMMITTEE HEARING
17 BOTH MYSELF AND MR. JOHN CUPPS RAISED THIS ISSUE OF
18 THE "AND" AND THE "OR." AND IN THE BILL THAT WAS IN
19 PRINT BEFORE THE LEGISLATIVE COMMITTEE AT THE TIME HAD
20 "AND," THAT BOTH CONDITIONS MUST BE PRESENT BEFORE THE
21 APPLICANT OR THE PERMIT HOLDER WAIVES THEIR STAY
22 RIGHTS, AND THAT WAS GENERALLY ACCEPTED BY THE WASTE
23 INDUSTRY.

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1 HOWEVER, DURING MR. MELANDREA'S
2 TESTIMONY IT BECAME CLEAR THAT THE INTENT OF THE
3 SPONSOR WAS TO HAVE A BILL THAT READ "OR" AND THAT
4 EITHER CONDITION MAY BE PRESENT, A MERE THREAT OF
5 NUISANCE -- WHICH IS ABOUT ANY FACILITY, SOLID WASTE
6 FACILITY -- AND YOU AUTOMATICALLY WAIVE YOUR STAY
7 RIGHTS. THAT'S PROBLEMATIC TO THE WASTE INDUSTRY.

8 AND I'VE HAD A NUMBER OF DISCUSSIONS
9 WITH WASTE MANAGEMENT, INC., BROWN AND FERRIS, CRC,
10 OTHERS ON THIS ISSUE. THERE IS A LOT OF CONCERN
11 REGARDING THE CHANGE IN THE LATEST AMENDED VERSION OF
12 THE BILL. WE HAVE BEEN IN CONTACT WITH THE AUTHOR'S
13 OFFICE, AND WE ARE WORKING WITH THE AUTHOR'S OFFICE
14 TOWARDS RESOLVING THIS ISSUE.

15 BUT, AS THE BILL IS CURRENTLY IN PRINT,
16 IT IS PROBLEMATIC BECAUSE A PERMIT HOLDER WOULD WAIVE
17 THEIR RIGHTS FOR A STAY FOR A MERE THREAT OF NUISANCE.

18 SO, WE STRONGLY RECOMMEND THAT THE
19 POSITION THAT THE BOARD ADOPTS IS TO SUPPORT THE BILL
20 WITH AMENDMENT, AND THAT IS TO RETURN TO THE "AND" AS
21 INDICATED. AND I'D BE HAPPY TO ANSWER ANY QUESTIONS.

22 I MIGHT MENTION THAT WE ALSO HAD THIS
23 DISCUSSION AT THE AB 59 WORKSHOP, AS FAR AS WHAT KIND

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1 OF ENFORCEMENT ACTIONS, ET CETERA, ET CETERA.

2 AND THIS ISSUE OF WAIVING YOUR STAY
3 RIGHTS AUTOMATICALLY WITH THE MERE THREAT OF NUISANCE,
4 I DON'T THINK HAS HAD A FULL DISCUSSION BEFORE THIS
5 BOARD TO DATE. AND, CERTAINLY IT'S A HUGE ISSUE AND I
6 WOULD ENCOURAGE THE BOARD TO HAVE THAT DISCUSSION.

7 IT IS UNFORTUNATE, AND I WILL MENTION
8 THIS -- IT IS UNFORTUNATE THAT THE SPONSOR DID GO
9 AHEAD AND AMEND THE BILL AFTER THE LEGISLATIVE
10 COMMITTEE HEARING AND DID NOT INFORM THE AUTHOR'S
11 OFFICE THAT THIS DISCUSSION HAD TAKEN PLACE. SO, THE
12 AUTHOR'S OFFICE HAS ASSURED US THAT WE WILL HAVE THE
13 OPPORTUNITY TO RESOLVE THIS ISSUE BEFORE THIS BILL
14 MOVES FORWARD.

15 CHAIRMAN PENNINGTON: MEMBER JONES?

16 MEMBER JONES: AS I UNDERSTAND IT NOW, MR.
17 FRAZEE'S ISSUE WAS NOT THIS ISSUE, ON THE FIRST ONE.
18 RIGHT? AT THE LEGE COMMITTEE MEETING IT DEALT WITH
19 ANOTHER PART OF THE BILL.

20 MS. ZWARTS: NO. MR. FRAZEE'S AMENDMENT WAS
21 SPECIFICALLY THIS, TO CHANGE IT FROM "AND" TO "OR," AS
22 I RECALL.

23 MEMBER JONES: I THOUGHT IT WAS TO ANOTHER

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1 SECTION OF THAT --

2 MS. ZWARTS: NO, THAT WOULD BE THIS ONE. I
3 MENTIONED THAT THE LEGE STAFF CAME UP WITH ANOTHER
4 TECHNICAL AMENDMENT TO ANOTHER SECTION WHERE THEY PUT
5 AN "AND" INSTEAD OF A "OR," BUT THAT WAS CONSISTENT
6 WITH THE COMMITTEE ACTION.

7 MEMBER JONES: THAT'S THE "AND" OR "OR" I'M
8 TALKING ABOUT. AND THAT'S NOT THE ONE THAT BOB DID.

9 ALL RIGHT. THE "OR" THAT I AM LOOKING
10 AT IS WHEN THIS BILL REFERS TO 44-005 --

11 MS. DELMATIER: TWO OR THREE --

12 MEMBER JONES: THREE.

13 MS. DELMATIER: -- SUBSECTION TWO OR THREE.
14 IT SHOULD READ SUBSECTION TWO AND SUBSECTION THREE.

15 MS. ZWARTS: THAT WAS THE COMMITTEE
16 AMENDMENT, TO CHANGE THAT FROM PARAGRAPH TWO AND THREE
17 TO PARAGRAPH TWO OR THREE.

18 MEMBER EATON: I ARGUED FOR OR, IF I REMEMBER
19 -- OR, AND, DIDN'T I? AND THEN WE HAD A CORRECTION?

20 MS. ZWARTS: WE WERE CONFUSED. I WILL ADMIT
21 THERE WAS CONFUSION.

22 MEMBER EATON: YES.

23 MS. ZWARTS: -- BUT THERE WAS SOME CONFUSION,

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1 AND WE DID CHECK WITH MR. FRAZEE AND -- IT WAS
2 CONFUSING, I WILL ADMIT, YEAH.

3 MR. FRAZEE: AND PERHAPS I WAS THE CONFUSEE
4 OR THE CONFUSOR OR WHICHEVER. I PREFER CONFUSOR -- OR
5 BOTH.

6 MEMBER JONES: I'M JUST CONFUSED.

7 CHAIRMAN PENNINGTON: SO AM I

8 MEMBER FRAZEE: TO PUT IT IN PLAIN LANGUAGE,
9 MY INTENT WAS TO NARROW THE CIRCUMSTANCE IN WHICH A
10 STAY OR WAIVING OF THE STAY -- TO SAY THIS CORRECTLY -
11 - WOULD BE IMPLEMENTED. THAT ONLY IN SITUATIONS THAT
12 POSED A THREAT, A SERIOUS THREAT WAS THE -- WHAT'S THE
13 WORD I WANT TO USE HERE?

14 MEMBER JONES: THE TRIGGER FOR THE STAY?

15 MEMBER FRAZEE: YEAH. BUT THERE'S ANOTHER
16 WORD.

17 MS. ZWARTS: I ASSUME THAT YOU WISHED TO HAVE
18 KEPT IT THE WAY THAT THE LAW -- THE BILL READ BEFORE,
19 WHERE BOTH CONDITIONS MUST BE IN PLACE BEFORE THE STAY
20 OF A CEASE AND DESIST ORDER IS EFFECTIVE.

21 CHAIRMAN PENNINGTON: YOU WANT THE TIGHTEST
22 POSSIBLE EFFORT TO PREVENT PEOPLE FROM WAIVING THE
23 STAY.

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1 MS. ZWARTS: MAYBE IF I -- I KNOW THIS IS A
2 CONFUSING BILL WITH --

3 CHAIRMAN PENNINGTON: WAIVING THE STAY IS --

4 MS. ZWARTS: -- A DOUBLE NEGATIVE --

5 (THE PARTIES SIMULTANEOUSLY SPEAK.)

6 MS. ZWARTS: -- IF YOU WANT IT TO BE READ
7 CONSERVATIVELY, YOU WOULD WANT AND. IF YOU WOULD WANT
8 IT TO BE READ LIBERALLY, YOU WOULD WANT OR. MEANING,
9 CONDITION ONE OR CONDITION TWO, WHICH IS HOW THE --
10 THE PARTIES SIMULTANEOUSLY SPEAK.)

11 CHAIRMAN PENNINGTON: -- CONDITION TWO OR
12 CONDITION THREE, RIGHT?

13 MS. ZWARTS: IT SHOULD SAY -- EXCUSE ME --
14 CONDITION TWO OR CONDITION THREE.

15 (THE PARTIES SIMULTANEOUSLY SPEAK.)

16 MS. DELMATIER: NOT ALLOW. YOU AUTOMATICALLY
17 WAIVE YOUR STAY UNDER THIS BILL.

18 MS. ZWARTS: YEAH, YOU WAIVE YOUR STAY.

19 MS. DELMATIER: YOU AUTOMATICALLY -- YOU HAVE
20 NO ABILITY TO STAY FOR A MERE THREAT OF NUISANCE IF
21 "OR" REMAINS IN THE BILL.

22 MEMBER JONES: SEE, I THINK IF SOMEONE IS
23 OPERATING WITHOUT A VALID SOLID WASTE FACILITY PERMIT,

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1 THEY DON'T DESERVE THE STAY.

2 MS. DELMATIER: ABSOLUTELY. ABSOLUTELY.

3 MEMBER JONES: I MEAN, THEY JUST DON'T GET
4 IT.

5 MS. DELMATIER: NO ARGUMENT.

6 MEMBER JONES: I THINK THAT ANYBODY THAT
7 OPERATES IN A MANNER THAT CAUSES OR THREATENS TO CAUSE
8 A CONDITION OF HAZARD OR POLLUTION, I'VE GOT A PROBLEM
9 WITH THEM TOO. BUT THE THREAT OF A NUISANCE IS NOT
10 WORTH GIVING UP YOUR STAY.

11 MS. DELMATIER: CORRECT.

12 MEMBER JONES: THAT IS -- I MEAN, TO JUST SAY
13 LITTER IS A THREAT OF A NUISANCE.

14 MS. DELMATIER: CORRECT.

15 MEMBER JONES: AND BECAUSE I'VE DONE THAT, I
16 GIVE UP MY STAY. THAT'S WHERE THE PROBLEM IS.

17 MS. DELMATIER: ABSOLUTELY.

18 MEMBER JONES: SO HOW DO WE FIX THAT WORD?

19 MS. DELMATIER: "AND."

20 MEMBER JONES: HOW DO WE -- WELL --

21 MS. ZWARTS: THE WAY IF -- IF I COULD PROVIDE
22 ASSISTANCE OF A -- IT MIGHT BE OF ASSISTANCE, IF YOU
23 WOULD WISH IT -- AS YOU JUST INDICATED, YOU WOULD ASK

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1 THAT THE BILL BE AMENDED BACK TO ITS JUNE 23RD
2 VERSION, WHERE IT HAD SAID "AND." IF THAT IS THE
3 BOARD'S WISH.

4 MEMBER JONES: BECAUSE I THINK WE'RE IN
5 AGREEMENT ON -- WE'RE IN AGREEMENT THAT PEOPLE THAT
6 OPERATE WITHOUT SOLID WASTE FACILITIES THEY DON'T HAVE
7 A STAY TO WAIVE.

8 CHAIRMAN PENNINGTON: WHAT'S THE DATE?

9 MS. ZWARTS: JUNE 23RD, AMENDED VERSION.

10 IF I COULD HELP A LITTLE BIT? IF YOU
11 WERE TO PROPOSE THAT MOTION, THEN THE BILL WOULD READ
12 THAT IT WOULD REQUIRE THAT TWO CONDITIONS MUST EXIST,
13 OPERATING WITHOUT A PERMIT AND THREATEN TO CAUSE
14 HAZARDOUS POLLUTION OR NUISANCE CONDITION BEFORE
15 LIMITATIONS WOULD BE PLACED ON THE APPEALS PROCESS.

16 MS. TOBIAS: SO, I DON'T THINK, MEMBER JONES,
17 THAT THAT EXACTLY REFLECTS WHAT YOU JUST SAID YOUR
18 INTEREST WAS.

19 MEMBER JONES: WHAT I HAVE A PROBLEM WITH IS
20 THE NUISANCE PART. IT IS TOO SUBJECTIVE. HOW DO WE
21 FIX THAT? THE REST OF IT IS FINE. I THINK YOU SHOULD
22 WAIVE THE STAYS ON SOME OF THOSE. IT IS THE THREAT OF
23 A NUISANCE THAT IS TOO SUBJECTIVE.

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1 MS. DELMATIER: MEMBER JONES, IF I MIGHT
2 COMMENT ON THAT? UNDER DISCUSSION WITH MR. WAYNE'S
3 OFFICE IS A PROPOSED AMENDMENT TO RESTATE SUBSECTION
4 THREE, MINUS THE REFERENCE TO NUISANCE. SO IT WOULD
5 READ --

6 MEMBER FRAZEE: AND THAT WOULD RESOLVE THE
7 PROBLEM ALSO.

8 MS. DELMATIER: YES.

9 MEMBER JONES: THAT WOULD TAKE CARE OF
10 EVERYTHING.

11 MS. DELMATIER: WELL, RATHER THAN REFERENCE
12 IN THE BILL SUBSECTION THREE, WHICH INCLUDES NUISANCE,
13 WE WOULD RESTATE IN THE BILL'S LANGUAGE EVERYTHING IN
14 THREE MINUS NUISANCE.

15 CHAIRMAN PENNINGTON: WHAT WE REALLY WANT TO
16 DO IS HAVE A SUPPORT --

17 MS. DELMATIER: WITH AMENDMENT.

18 CHAIRMAN PENNINGTON: -- WITH THIS AMENDMENT,
19 OR OPPOSE WITHOUT THIS AMENDMENT.

20 MS. ZWARTS: THAT WOULD BE CORRECT. UNLESS
21 THE AMENDMENT IS THERE TO OPPOSE, UNLESS THIS
22 AMENDMENT IS THERE, OR SUPPORT IF THIS AMENDMENT THAT
23 DENISE JUST MENTIONED IS ADDED?

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1 MEMBER JONES: IT'S INCLUDED.

2 MS. ZWARTS: IS INCLUDED. WHICH WOULD MEAN
3 THAT YOU'RE ALL RIGHT WITH A THREATEN TO CAUSE A
4 HAZARDOUS OR POLLUTION CONDITION, BUT NOT NUISANCE.

5 MEMBER JONES: RIGHT.

6 CHAIRMAN PENNINGTON: CORRECT.

7 MEMBER JONES: YEAH, BECAUSE THAT PROTECTS
8 PUBLIC HEALTH AND SAFETY.

9 MS. ZWARTS: RIGHT.

10 MEMBER JONES: AND THAT I DON'T WANT TO
11 WEAKEN AT ALL.

12 MS. ZWARTS: NO.

13 MEMBER JONES: BUT IT IS THE THREAT OF A
14 NUISANCE THAT'S TOO SUBJECTIVE.

15 CHAIRMAN PENNINGTON: NOW, AS OUR LEGE
16 DIRECTOR, WHICH IS THE BETTER APPROACH TO TAKE,
17 SUPPORT IF AMENDED OR OPPOSE --

18 MEMBER JONES: WITH THE AMENDMENT?

19 MS. TOBIAS: WELL, GENERALLY YOU OFFER AN
20 OPPOSE UNLESS AMENDED IF YOU ANTICIPATE THAT THE
21 AUTHOR WOULD NOT BE WILLING TO TAKE BOARD'S AMENDMENT,
22 AND ALSO IF -- HOW IMPORTANT THAT AMENDMENT IS TO THE
23 BOARD. AND SUPPORT AMENDMENT IF AMENDED IS GENERALLY

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1 GIVEN IF YOU EXPECT THAT THE AUTHOR WILL TAKE IT OR
2 THAT AMENDMENT IS NOT AS CRITICAL TO THE BOARD.

3 CHAIRMAN PENNINGTON: THEN WE WOULD WANT TO
4 BE OPPOSED UNLESS AMENDED.

5 MEMBER JONES: YES, WE WOULD.

6 CHAIRMAN PENNINGTON: CORRECT.

7 MEMBER EATON: WHERE IS THE AUTHOR, MS.
8 DELMATIER?

9 MS. DELMATIER: THE AUTHOR IS WAITING FOR MR.
10 MELAN TO RETURN FROM VACATION. AND THE AUTHOR HAS
11 AGREED TO MEET AND DISCUSS THE OPTIONS. IT IS MY BEST
12 ESTIMATE THAT THE AUTHOR IS WILLING TO WORK WITH THE
13 INDUSTRY TO RESOLVE THE ISSUE SATISFACTORILY. AND I
14 ANTICIPATE THAT THE AMENDMENT THAT WE JUST DISCUSSED
15 AT A MINIMUM WOULD BE INCORPORATED INTO THE BILL.

16 CHAIRMAN PENNINGTON: WE HAVE ONE OTHER
17 PERSON IN THE AUDIENCE WHO WANTS TO GET UP AND CONFUSE
18 US EVEN MORE. EVAN EDGAR.

19 MR. EDGAR: HELLO, CHAIRMAN, BOARD MEMBERS.
20 MY NAME IS EVAN EDGAR, EDGAR ASSOCIATES, REPRESENTING
21 CRC. I WANT TO THANK DENISE FOR POINTING THIS OUT AND
22 HAVING THE WASTE BOARD TO RECONSIDER THIS, BECAUSE
23 IT'S VERY IMPORTANT TO THE INDUSTRY.

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1 ON A JUNE 23RD VERSION CRC TOOK A
2 SUPPORT POSITION. WE WANTED THE NARROW INTERPRETATION
3 THAT OFFERED UNDER THE "AND," AND WE HAD HOPED TO KEEP
4 THAT. BUT DENISE HAD BEEN WORKING CLOSER TO THE
5 AUTHOR'S OFFICE, AND WITH THIS "OR" WE FEEL IT IS TOO
6 BROAD, AND IT DOES OPEN UP THE DOOR TO NUISANCES.

7 WE WOULD SEEK AN OPPOSE UNLESS AMENDED
8 SO WE CAN WORK WITH THE AUTHOR'S OFFICE IN ORDER TO
9 GET A NARROWER INTERPRETATION.

10 WE BELIEVE THAT WITH A TIERED PERMITTING
11 FOR TRANSFER STATION REGS AND C&D AND COMPOSTING, THAT
12 WE KNOW WHAT IS PERMITTED AND WHAT IS NOT PERMITTED,
13 AND WE FEEL THAT IN GIVING LEA THE TOOLS IN ORDER TO
14 START ENFORCING THE REGULATION AND HAVING THIS BILL IN
15 PLACE WILL AFFORD AN EQUITABLE PLAYING FIELD OUT
16 THERE.

17 SO, WE WOULD RECOMMEND AN OPPOSE UNLESS
18 AMENDED POSITION. THANK YOU FOR THE RECONSIDERATION.

19 CHAIRMAN PENNINGTON: THANK YOU, MR. EDGAR.

20 ANY QUESTIONS OF MR. EDGAR?

21 MS. TOBIAS: MR. PENNINGTON, I JUST WANT TO -
22 - AND THIS IS PROBABLY NOT GOING TO HELP -- I HAVE, I
23 GUESS, A PROBLEM TAKING OUT THE WORD NUISANCE FROM THE

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1 LEGAL ENFORCEMENT STANDPOINT. AND I GUESS MY CONCERN
2 IS NOT TOTALLY WITH THE PRESENCE OR ABSENCE OF A STAY
3 WITH THAT.

4 BUT, I WILL SAY THAT I THINK THAT OUR
5 ENFORCEMENT EFFORTS MORE AND MORE RELY ON THE PRESENCE
6 OF A NUISANCE CONDITION AS OPPOSED TO A HAZARDOUS
7 CONDITION, WHICH WE OFTEN CAN'T REACH. YOU KNOW,
8 EITHER THAT INCLUDES SOMETHING WE DON'T REGULATE,
9 WHICH IS A HAZARDOUS MATERIAL, OR IT INCLUDES SOME
10 KIND OF HAZARD TO LIFE AND HEALTH, OR SOMETHING LIKE
11 THAT, WHICH A LOT OF TIMES WE CAN'T REACH EXACTLY.

12 POLLUTION DOES NOT ALWAYS COVER IT AND
13 ESPECIALLY WHEN YOU GET TO SOME OF THE OPERATIONS.
14 NOT SO MUCH SOME OF THE LANDFILLS THEMSELVES, BUT SOME
15 OF THE OTHER TYPES OF THINGS THAT WE'RE REGULATING AT
16 THIS POINT.

17 THE NUISANCE IS THE ONLY THING THAT WE
18 DO HAVE TO FALL BACK ON. SO, I'M RAISING THIS NOT SO
19 MUCH TO SAY I TOTALLY OPPOSE THIS AT THIS TIME AND
20 THAT I WOULDN'T AGREE WITH IT, BUT I KIND OF FEEL LIKE
21 WE'RE SOLVING ONE PROBLEM, IN TERMS OF THE STAY
22 PROBLEM, WITH MAYBE RAISING UP ANOTHER PROBLEM WHICH
23 IS TAKING NUISANCE OUT OF THIS.

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1 AND I'M MORE BRINGING THIS UP AS THAT I
2 THINK THIS IS SOMETHING WE NEED TO WORK ON AS OPPOSED
3 TO TRY TO RESOLVE RIGHT HERE. SO, I'LL JUST RAISE
4 THAT WITHOUT SAYING THAT -- YOU KNOW, MAYBE WE CAN FIX
5 THIS AND IF....

6 I UNDERSTAND YOUR CONCERNS ABOUT THE
7 FACT -- AND DENISE'S, AS WELL -- THAT MAYBE IT'S
8 DIFFICULT OR SUBJECTIVE AT TIMES WITH WHAT'S A
9 NUISANCE, WITH LITTER BLOWING ACROSS THE ROAD AS
10 OPPOSED TO SOMETHING ELSE.

11 BUT WHAT WE'RE FINDING IN LEGAL AT THIS
12 POINT IS THAT MORE AND MORE OF OUR ENFORCEMENT DOES
13 CENTER AROUND A NUISANCE ISSUE AS OPPOSED TO SOME OF
14 THESE OTHER ONES.

15 MS. DELMATIER: MR. CHAIRMAN --

16 CHAIRMAN PENNINGTON: LET MS. DELMATIER HERE,
17 PLEASE.

18 MS. DELMATIER: WE AREN'T SUGGESTING IN OUR
19 AMENDMENT, MS. TOBIAS, THAT WE CHANGE THE LANGUAGE IN
20 SUBSECTION THREE UNDER 45-005. IN OTHER WORDS, THE
21 ENFORCEMENT ACTION REMAINS INTACT. ALL WE'RE
22 SUGGESTING IN THIS BILL IS THAT UNDER THE STAY
23 PROVISION ONLY IS WHERE WE RESTATE THE LANGUAGE MINUS

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1 NUISANCE. SO IT'S ONLY THE STAY ISSUE THAT WE'RE
2 ADDRESSING. WE'RE NOT ADDRESSING OR ALTERING OR
3 RECOMMENDING TO ALTER 450053 AT ALL.

4 MS. TOBIAS: OKAY. AND I UNDERSTAND THAT.
5 I'M JUST -- I'M KIND OF A LITTLE BIT MORE RESPONDING
6 TO WHAT MEMBER JONES SAID ABOUT -- YOU KNOW, WHEN
7 WE'RE TRYING TO SEPARATE THIS OUT AND FIGURE OUT
8 EXACTLY WHAT THIS DOES APPLY TO, I JUST -- I HAVE HAD
9 NO OPPORTUNITY TO TALK TO THE LEGAL STAFF AND
10 ESPECIALLY THE PEOPLE WHO ARE DOING OUR ENFORCEMENT
11 AND REALLY -- AND THE P&E STAFF IN TERMS OF WORKING
12 WITH THIS AND SEEING WHAT KINDS OF RAMIFICATIONS THIS
13 WOULD HAVE, TO TAKE OUT NUISANCE IN TERMS OF THE STAY
14 PROVISION.

15 SO, AGAIN, I'M JUST RAISING THIS -- I
16 HAVE SOME UNEASE ABOUT IT. AND IT MAY COME TO THE
17 FACT THAT IT WOULD NOT BE A PROBLEM TO DO IT IN THIS
18 PARTICULAR SITUATION. BUT, YOU KNOW, JUST OPERATING
19 RIGHT HERE AND NOW, THIS IS MAKING ME VERY UNEASY,
20 THAT WE HAVEN'T THOUGHT ABOUT ALL THE RAMIFICATIONS.

21 CHAIRMAN PENNINGTON: MEMBER EATON?

22 MEMBER EATON: MR. CHAIRMAN, LET ME SEE IF WE
23 CAN'T WORK OURSELVES THROUGH THIS. AND LET ME SUGGEST

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1 THE FOLLOWING THREE-STEP APPROACH.

2 THE FIRST BEING PROCEDURAL. THAT WE
3 ACTUALLY TAKE AN ACTION BY RESCINDING WHAT WE DID THIS
4 MORNING WITH REGARD TO THE SUPPORT OR OPPOSITION OF
5 THAT PARTICULAR BILL.

6 THEN, TWO, AUTHORIZE, UNDER YOUR
7 SIGNATURE, A LETTER TO GO TO THE AUTHOR EXPRESSING THE
8 CONCERNS THAT WE HAVE WITH REGARD TO THIS PARTICULAR
9 PHRASEOLOGY OR SECTION IN OUR CONCERNS OF THE
10 NUISANCE.

11 AND THEN THE THIRD STEP BEING THAT,
12 SINCE WE'LL PROBABLY MEET TWICE NEXT MONTH, THAT WE
13 CAN THEN BE IN A BETTER POSITION, IF MS. DELMATIER'S
14 SUCCESSFUL OR WHAT HAVE YOU, TO TAKE AN ACTUAL OPPOSE,
15 A SUPPORT OR WHATEVER POSITION, THERE -- IT SEEMS TO
16 BE THAT WAY.

17 BUT I THINK THAT IT'S IMPORTANT,
18 HOWEVER, THAT WE DO COMMUNICATE OUR VIEWS TO THE
19 AUTHOR WITH RESPECT TO THIS PARTICULAR PROVISION.

20 THAT SEEMS TO BE A PRUDENT THREE-STEP
21 APPROACH. IT GIVES LEGAL SOME TIME TO DO WHAT THEY
22 NEED TO DO, LEGE SOME TIME WHAT THEY DO, MS. DELMATIER
23 THE TIME TO WORK WHATEVER, AND ALSO AT LEAST EXPRESS

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1 THE BOARD'S CONCERN FOR THIS PARTICULAR SECTION. AND
2 IF THAT SEEMS TO BE OKAY, I THINK THAT'S PROBABLY WHAT
3 WE SHOULD PROCEED ALONG.

4 CHAIRMAN PENNINGTON: THAT SOUNDS PRUDENT TO
5 ME.

6 I WAS JUST LOOKING AT -- WE HAVE OUR
7 DISCUSSION WITH THE NEXT ITEM, AND ONE OF THE THINGS
8 THAT I LOOKED AT WAS DATES, AND PROBABLY IF WE FOLLOW
9 -- OUR NEXT BOARD MEETING WILL BE THE 13TH OF AUGUST -
10 -

11 MEMBER EATON: WE ALREADY HAVE TWO BOARD
12 DATES FOR NEXT MONTH ALREADY, SO WE -- WELL, WE WOULD
13 HAVE THE 24TH, WHICH IS A SPECIAL BOARD MEETING --

14 CHAIRMAN PENNINGTON: WELL, THE OTHER ONE WAS
15 THE 26TH, SO --

16 MEMBER EATON: THE 26TH. SO THOSE TWO ARE
17 KIND OF SCHEDULED. ONE WOULD BE A SPECIAL.

18 MEMBER JONES: SO WE CAN DELL WITH THIS.

19 CHAIRMAN PENNINGTON: RIGHT.

20 MEMBER EATON: AND I THINK ALSO KNOWING MY
21 FRIENDS BOTH THE PROPONENTS AND THE OPPONENTS, THAT
22 QUICK ACTION ON THIS MATTER WITH REGARD TO IT ENDING
23 UP ON THE GOVERNOR'S DESK PRIOR TO AUGUST 30TH, NOT

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1 HAVING A RESOLUTION OR PROBABLY A -- YOU KNOW, ARE
2 NEARLY AS GREAT AS MR. WHITE'S ITEM ON MS. FIGUEROA'S
3 BILL.

4 CHAIRMAN PENNINGTON: MR. FRAZEE?

5 MEMBER FRAZEE: YES. I JUST WANTED TO
6 INDICATE THAT MY CONCERN, WHAT BROUGHT UP THIS WHOLE
7 THING, ACTUALLY GOES BEYOND THE ARGUMENT OVER
8 NUISANCE. AND WHAT I WAS DRIVING AT WAS THE POTENTIAL
9 FOR SHUTTING DOWN AN OPERATION ON A MERE TECHNICAL
10 VIOLATION. NOT EVEN NUISANCE, BUT SAY SOMETHING AS
11 MINIMAL AS OPERATING OUT OF HOURS OR EXCEEDING THE
12 DAILY LOAD ON A PARTICULAR DAY, OR SOME OTHER
13 TECHNICAL VIOLATION.

14 AND THAT ISSUE, NO MATTER WHAT HAPPENS,
15 IS OUT OF HERE, AND THAT'S WHERE MY PRINCIPAL CONCERN
16 WAS. AND, NOT OVER THIS -- WHETHER IT'S A -- THE
17 NUISANCE ISSUE OR NOT.

18 MS. TOBIAS: YOU KNOW, I MIGHT POINT OUT --
19 AND ANYBODY CAN CORRECT ME IF I'M WRONG ON THIS -- BUT
20 IT SEEMS TO ME THAT WE HAVE TO DO A NOTICE AND ORDER
21 BEFORE WE CAN DO A CEASE AND DESIST.

22 SO, YOU WOULD ALWAYS KNOW -- ANYONE
23 WOULD KNOW, THE OPERATOR, THE BOARD, THE LEA, WHOMEVER

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1 WAS DOING THIS -- THE ORDER WOULD ALREADY BE GIVEN AS
2 TO THE BASIS FOR WHY IT WAS BEING SHUT DOWN. SO THERE
3 WOULD BE AN OPPORTUNITY, EVEN IF IT'S DONE ON VERY
4 SHORT NOTICE, TO EITHER SEEK COURT INTERVENTION, TO
5 BASICALLY GO TO A COURT -- IF SOMEBODY'S SHUTTING YOU
6 DOWN FOR HAVING LITTER BLOWING ACROSS THE ROAD OR
7 SOMETHING, I THINK THERE'S OTHER WAYS TO BASICALLY
8 DEAL WITH THIS.

9 AND I'M NOT SO MUCH SAYING THAT THIS
10 SHOULD CHANGE MEMBER EATON'S APPROACH, BECAUSE I THINK
11 IT IS -- AND MAYBE DOROTHY WANTS TO CORRECT ME ON
12 THIS, I DON'T KNOW. BUT, IT SEEMS TO ME THAT WE WOULD
13 KNOW WHAT THE BASIS WAS FOR THIS -- THE ORDER THAT'S
14 PROMPTING THE NEED TO HAVE A STAY OR NOT TO HAVE A
15 STAY OF THAT ACTION.

16 IS THAT NOT...?

17 MEMBER JONES: BUT THEY WAIVED THEIR STAY.

18 MS. DELMATIER: THE ONLY CLARIFICATION I WAS
19 GOING TO OFFER IS THAT I THINK A CEASE AND DESIST
20 ORDER IS SIMPLY A FORM OF NOTICE AND ORDER. SO, YOU
21 COULD ISSUE A CEASE AND DESIST ORDER INITIALLY IF THE
22 CONDITIONS WARRANTED IT, IF THE LEA FELT THEY
23 WARRANTED THAT FORM OF ORDER.

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1 MS. TOBIAS: BUT THEN, YOU KNOW, I THINK THAT
2 OUR POLICY -- AND I GUESS I'VE JUST BEEN READING SOME
3 OF THE ADVISORIES THAT ARE GOING THROUGH THE LEGAL
4 OFFICE RIGHT NOW, AND I THINK I WOULD HAVE TO SAY THAT
5 MOST OF THE TIME OUR ADVICE WOULD BE THAT YOU WOULD
6 NEED A NOTICE AND ORDER FIRST. BECAUSE GENERALLY
7 THESE ENFORCEMENT ACTIONS BUILD UP, SO I'M NOT GOING
8 TO SAY THAT YOU WOULDN'T HAVE A SITUATION WHERE YOU'D
9 GO IN AND HAVE AN IMMEDIATE CEASE AND DESIST. BUT I
10 WOULD GUESS THAT MAYBE 75 TO 80 PERCENT WE WOULD.

11 IN THAT CASE, IF YOU'RE GOING IN TO GIVE
12 SOMEBODY A CEASE AND DESIST WITHOUT A NOTICE AND
13 ORDER, I WOULD THINK THAT MOST OF US WOULD BE PRETTY
14 CAREFUL AND HAVE QUITE A SUBSTANTIVE BASIS TO BE
15 TELLING SOMEBODY TO TAKE SUCH A DRASTIC ACTION. THAT
16 IT WOULDN'T BE SOMETHING THAT'S -- THAT EVERYBODY ELSE
17 WOULD AGREE SHOULD NOT HAVE BEEN DONE.

18 MEMBER JONES: MR. CHAIR?

19 CHAIRMAN PENNINGTON: YES.

20 MEMBER JONES: I JUST WANT TO RECALL HISTORY
21 HERE. WE HAD AN ITEM NOT TOO LONG AGO THAT WAS, BY
22 EFFECT, A CEASE AND DESIST ORDER BUT IT WASN'T WRITTEN
23 ON THE RIGHT 8½ X 11 FORM. AND WHEN THAT ITEM WENT

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1 FORWARD, IT WAS A -- BECAUSE IT WASN'T IN THAT FORM,
2 YOU DON'T HAVE THE RIGHT TO APPEAL. AND THAT WAS THE
3 STAND OF THE COUNTY.

4 WHEN THE COUNTY CAME FORWARD AND WE
5 STARTED ASKING QUESTIONS, ONE OF THE QUESTIONS THAT I
6 HAD -- AND I THINK IT GOES TO WHAT MR. FRAZEE IS
7 TALKING ABOUT -- WAS YOU ISSUED THIS LETTER THAT IN
8 EFFECT WAS A CEASE AND DESIST, BECAUSE YOU TOLD THEM
9 THEY COULDN'T DO IT ANYMORE, AND THAT WAS THEIR COVER.
10 HAD YOU LOOKED AT -- IF THEY HAD LIVED BY THAT CEASE
11 AND DESIST, WHAT WOULD THEY HAVE COVERED THE GARBAGE
12 WITH? AND THE ANSWER WAS THAT'S THEIR PROBLEM.
13 THEY'RE IN BUSINESS. THAT'S THEIR PROBLEM.

14 AND I THINK THAT KIND OF, IN MY MIND,
15 BRIGHTENS THIS ISSUE BECAUSE THIS THING SAYS YOU ARE
16 WAIVING THE STAY. SO IF A CEASE AND DESIST CAME,
17 YOU'VE ALREADY WAIVED THE RIGHT TO HOLD IT BACK JUST A
18 LITTLE BIT WHILE YOU TRY TO WORK THROUGH THIS THING.
19 AND IF YOU'VE GOT SOMEBODY THAT IS WILLING TO SAY
20 THAT'S THEIR PROBLEM, I THINK THAT WE NEED TO HAVE
21 MORE DISCUSSION.

22 BECAUSE, I THINK WHAT MR. FRAZEE IS
23 SAYING IS, YOU KNOW, HE DIDN'T WANT SOMEBODY TO BE

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1 ABLE TO COME IN AND SEE THAT THERE ARE 20 MORE CARS
2 THAT CAME IN AND, BOOM, YOU KNOW, YOU HAVE NO RIGHT,
3 YOU HAVE NO STAY, WE'RE GIVING YOU A CEASE AND DESIST.

4 AND THEN WE'RE ALSO TALKING ABOUT THE
5 STAY. SO, I THINK WE NEED TO HAVE SOME DISCUSSION,
6 BECAUSE WE KEEP TRYING TO DRAW BRIGHT LINES IN THE
7 SAND, AND I THINK WE DO A GOOD JOB OF THAT, BUT THEY
8 GET INTERPRETED JUST ABOUT ANY WAY THAT ANYBODY IN
9 POWER WANTS TO INTERPRET IT OR ANYBODY THAT WANTS TO
10 LIVE WITH IT.

11 SO, I THINK WE HAVE TO -- I LIKE MEMBER
12 EATON'S APPROACH, AND I THINK WE CAN WORK THROUGH THIS
13 THING. I AGREE WITH SOME OF THE THINGS YOU'RE SAYING,
14 BUT I REMEMBER THEM SAYING IT'S THEIR PROBLEM OR THEY
15 CAN BREAK THE LAW. THAT WAS ANOTHER OPTION SHE GAVE.

16 CHAIRMAN PENNINGTON: MEMBER EATON, PERHAPS
17 YOU WOULD LIKE TO MEMORIALIZE YOUR THOUGHTS THERE IN
18 THE FORM OF A MOTION?

19 MEMBER EATON: SURE. FIRST, LET'S TAKE THE
20 PROCEDURAL ACTION. AND I WOULD MOVE THAT WE RESCIND
21 THE ACTION BY WHICH THE BOARD, ON THIS DATE, JULY 29,
22 1998, TOOK A SUPPORT POSITION WITH REGARD TO ASSEMBLY
23 BILL 2521.

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1 CHAIRMAN PENNINGTON: SECOND THAT?

2 MEMBER JONES: YEAH.

3 CHAIRMAN PENNINGTON: IF THERE'S NO FURTHER
4 DISCUSSION, WILL THE SECRETARY CALL THE ROLL?

5 THE SECRETARY: BOARD MEMBER EATON?

6 MEMBER EATON: AYE.

7 THE SECRETARY: FRAZEE?

8 MEMBER FRAZEE: AYE.

9 THE SECRETARY: JONES?

10 MEMBER JONES: AYE.

11 THE SECRETARY: CHAIRMAN PENNINGTON?

12 CHAIRMAN PENNINGTON: AYE.

13 THE MOTION CARRIES.

14 MEMBER EATON: NOW I THINK WE'RE IN A
15 PROCEDURAL POSTURE BY WHICH WE CAN MOVE TO THE OTHER
16 ITEM. I WOULD MOVE THAT THE BOARD CHAIRMAN BE
17 AUTHORIZED TO COMMUNICATE BY WRITTEN CORRESPONDENCE TO
18 THE AUTHOR OUR CONCERNS WITH REGARD TO ASSEMBLY BILL
19 2521 IN THE "AND OR" TECHNICAL AMENDMENT DISCUSSED AT
20 TODAY'S BOARD MEETING.

21 MEMBER JONES: SECOND THAT.

22 CHAIRMAN PENNINGTON: IT'S BEEN MOVED AND
23 SECONDED. ANY FURTHER DISCUSSION? IF NOT, WILL THE

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1 SECRETARY CALL THE ROLL?
2 THE SECRETARY: BOARD MEMBER EATON?
3 MEMBER EATON: AYE.
4 THE SECRETARY: FRAZEE?
5 MEMBER FRAZEE: AYE.
6 THE SECRETARY: JONES?
7 MEMBER JONES: AYE.
8 THE SECRETARY: CHAIRMAN PENNINGTON?
9 CHAIRMAN PENNINGTON: AYE.
10 THE MOTION CARRIES.
11 MEMBER EATON: THIRD, I WOULD JUST ASK THAT
12 WE WOULD CARRY OVER TO THE NEXT BOARD MEETING THE
13 ISSUE OF ASSEMBLY BILL 2521 AND THE POSITION OF THE
14 BOARD WITH REGARD TO THIS LEGISLATION.
15 CHAIRMAN PENNINGTON: OKAY. VERY GOOD.
16 THANK YOU.
17

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1 *(NO SECOND AUDIBLE, NO VOTE, ETC., CHAIRMAN
2 CONTINUES AS FOLLOWS, WHICH IS THIS REPORTER'S EDITED
3 VERSION OF 5 AND 10. LEFT HARD PAGE DESIGNATIONS IN
4 SO REPORTER KNOWS WHERE TO START EDIT AFTER 5 AND 10,
5 AND WHERE TO EDIT BEFORE 5 AND 10
6

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CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

7

8800 Cal Center Drive

8

Sacramento, CA 95826

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(916) 255-2200

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July 29, 1998

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REPORTER'S TRANSCRIPT OF EXCERPTS RE ITEMS 5 AND

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4 Reported by Cynthia Hall

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9

10 AGENDA ITEM NO. 5: CONSIDERATION OF THE
11 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD'S
12 WORKING STRUCTURE

13 CHAIRMAN PENNINGTON: OKAY. NOW WE'LL MOVE --
14 WE TOOK UP 26, NOW WE'LL MOVE TO ITEM 5, WHICH IS
15 CONSIDERATION OF THE CALIFORNIA INTEGRATED WASTE
16 MANAGEMENT BOARD'S WORKING STRUCTURE, MR. LEWIS B.
17 HASTINGS.

18 MR. HASTINGS: GOOD AFTERNOON, MR. CHAIRMAN AND
19 MEMBERS OF THE BOARD. I AM LEWIS B. HASTINGS, ADVISOR
20 TO CHAIRMAN PENNINGTON. I WILL BE MAKING A VERY BRIEF
21 PRESENTATION ON THIS ITEM.

22 SINCE 1995 THE BOARD HAS BEEN LOOKING
23 INTERNALLY AT ITS STRUCTURE TO IDENTIFY AND REMOVE

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1 BARRIERS TO COORDINATION AND COLLABORATION WITH THE
2 GOAL BEING TO PROVIDE A MORE EFFICIENT AND EFFECTIVE
3 SERVICE TO OUR STAKEHOLDERS AND TO MEET THE GOALS AND
4 MANDATES OF THIS BOARD. THEREFORE, IT IS APPROPRIATE
5 THAT THIS BOARD LOOK AT ITS FORMAL STRUCTURE AND
6 DETERMINE WHETHER ITS STRUCTURE OR MODIFICATION OF
7 THAT STRUCTURE IS NEEDED TO SUPPORT THESE GOALS OF
8 SERVICE TO OUR STAKEHOLDERS AND EFFECTIVELY CARRYING
9 OUT OUR MANDATES.

10 THE AGENDA ITEM HAS PROPOSED THREE OPTIONS
11 TO THE BOARD. HOWEVER, THE BOARD IS NOT REQUIRED TO
12 ADOPT ANY PARTICULAR STRUCTURE. THEY HAVE BASICALLY
13 TWO REQUIREMENTS, ONE, TO MEET ONCE A MONTH AND THE
14 OTHER, IF THEY CHOOSE TO FORM COMMITTEES THAT THOSE
15 COMMITTEES HAVE NOT LESS THAN THREE MEMBERS.

16 WITH THOSE BRIEF REMARKS, THAT CONCLUDES MY
17 PRESENTATION, AND I'LL BE AVAILABLE TO ANSWER ANY
18 QUESTIONS.

19 CHAIRMAN PENNINGTON: OKAY. THANK YOU.

20 I THINK YOU ALL HAVE BEEN GIVEN A COPY OF A
21 SUGGESTED MOTION THAT IS SIMILAR TO ONE THAT I BROUGHT
22 TO THE ADMIN COMMITTEE WITH SOME CHANGES. I'D LIKE TO
23 GO THROUGH THAT AND MAKE IT AS A MOTION, AND IF

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1 THERE'S ANY DISCUSSION ON MY MOTION WE'LL BE HAPPY TO
2 DO THAT.

3 I MOVE THAT THE BOARD TAKE THE FOLLOWING
4 ADDITION:

5 ONE, SUSPEND ALL THE EXISTING COMMITTEES.

6 TWO, TO CONDUCT TWO FULL BOARD MEETINGS
7 EACH MONTH WITH A SECOND DAY AS NEEDED.

8 THREE, AUTHORIZE THE BOARD CHAIRPERSON TO
9 APPOINT WORKING GROUPS AS NEEDED TO ADDRESS SPECIFIC
10 TERMED PROJECTS. THE BOARD AT THE MEETING IMMEDIATELY
11 FOLLOWING THE APPOINTMENTS SHALL AFFIRM ALL WORKING
12 GROUP APPOINTMENTS.

13 FOUR, AUTHORIZE THE BOARD CHAIRPERSON TO
14 APPOINT BOARD MEMBERS AS PROGRAM LIAISONS TO SERVE AS
15 LIAISON BETWEEN THE BOARD AND STAFF FOR A SPECIFIC
16 BOARD PROGRAM OR ACTIVITY.

17 AND, FIVE, AT ONE OF THE JANUARY, 1999,
18 BOARD MEETINGS THE BOARD WILL REINSTATE THE COMMITTEE
19 STRUCTURE. THE BOARD WILL UNDERTAKE A FULL REVIEW AND
20 EVALUATION OF THE COMMITTEE STRUCTURE AND TAKE ACTION
21 IT DEEMS APPROPRIATE.

22 DISCUSSION? I NEED A SECOND.

23 MEMBER FRAZEE: I'LL SECOND IT.

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1 MS. TOBIAS: CHAIRMAN PENNINGTON?

2 CHAIRMAN PENNINGTON: YES?

3 MS. TOBIAS: I HAVE ONE POINT --

4 CHAIRMAN PENNINGTON: SURE.

5 MS. TOBIAS: -- AND IT'S PRETTY MINOR, BUT I
6 JUST WANTED TO CLARIFY IT. IN LEWIS' STAFF REPORT ON
7 PAGE 5-3, WHICH IS THE COPY I'M LOOKING AT, THE
8 DISCUSSION UNDER B BASICALLY TALKS ABOUT ADVANTAGES,
9 AND THEN ON THE LAST LINE IT SAYS THAT COMMITTEES
10 WOULD BE MAINTAINED TO HANDLE THE MORE MINISTERIAL
11 TYPE FUNCTIONS. AND, AS I SAY, THIS IS VERY MINOR. I
12 WANT TO POINT OUT THAT IT SHOULD PROBABLY READ MORE
13 ROUTINE TYPE FUNCTIONS AS OPPOSED TO MINISTERIAL TYPE
14 FUNCTIONS.

15 A MEMBER OF THE STAFF RAISED THE ISSUE TO
16 ME OF DID THAT MEAN THAT THAT WAS MINISTERIAL IN TERMS
17 OF -- AS OPPOSED TO DISCRETIONARY, WHERE THE BOARD
18 DIDN'T HAVE DISCRETION. AND I THINK IT WAS JUST A BAD
19 CHOICE OF WORDS THERE. SO I'D LIKE TO MAKE IT CLEAR
20 THAT THAT'S NOT REALLY REFERRING TO MINISTERIAL DUTIES
21 OF THE BOARD, BUT TO MORE THE ROUTINE ACTIVITIES. I
22 JUST DIDN'T WANT THAT ON THE RECORD, SINCE THERE HAD
23 BEEN SOME QUESTION ABOUT THE BOARD'S DISCRETIONARY

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1 VERSUS MINISTERIAL DUTIES.

2 CHAIRMAN PENNINGTON: OKAY. THE MOTION HAS BEEN
3 -- MR. FRAZEE?

4 MEMBER FRAZEE: YES, I WILL SECOND -- EXCUSE ME,
5 I SECONDED THE MOTION.

6 I DO HAVE ONE ITEM I WANTED TO RAISE, AND
7 THAT'S ITEM 3, THE STATEMENT THE BOARD AT THE MEETING
8 IMMEDIATELY FOLLOWING THE APPOINTMENT SHALL AFFIRM ALL
9 WORKING APPOINTMENTS. THE SHALL IMPLIES THAT YOU
10 DON'T HAVE ANY DISCRETION, AND SO WHAT'S THE PURPOSE
11 OF AFFIRMING THEM? I THINK THAT LINE NEEDS TO BE
12 REWORKED A LITTLE BIT. SHALL CONSIDER --

13 CHAIRMAN PENNINGTON: GEE, WHIZ, THEY DON'T LET
14 ME GET AWAY WITH ANYTHING, DO THEY?

15 MEMBER EATON: IT COMES FROM HIS BACKGROUND AND
16 TRAINING.

17 CHAIRMAN PENNINGTON: WHAT WAS THE WORD HE USED,
18 "SHALL CONSIDER" --

19 MEMBER FRAZEE: SHALL CONSIDER FOR APPROVAL --

20 CHAIRMAN PENNINGTON: FOR APPROVAL OR
21 DISAPPROVAL?

22 MEMBER FRAZEE: OR, YES, CONSIDER AFFIRMING ALL
23 WORKING GROUP --

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1 CHAIRMAN PENNINGTON: SHALL CONSIDER, OKAY,
2 AFFIRMING. OKAY, THAT'S FINE.

3 ANY OTHER DISCUSSION?

4 MEMBER JONES: JUST ONE QUICK COMMENT.

5 CHAIRMAN PENNINGTON: SURE.

6 MEMBER JONES: THERE'S A LOT OF PEOPLE HERE THAT
7 WERE HERE AT THE ADMIN, IT WAS A BIGGER CROWD, THEY
8 WERE KIND OF DISAPPOINTED WHEN THIS ITEM DIDN'T COME
9 UP EARLIER I THINK.

10 BUT I THINK THAT THIS -- I HOPE THAT THIS
11 SENDS A CLEAR MESSAGE, THAT THIS IS GOING TO TAKE A
12 FOUR-OH VOTE, AND THERE ARE ONLY FOUR OF US UP HERE.
13 AND WE ARE WORKING TO MOVE THIS ORGANIZATION FORWARD.
14 AND I THINK THAT THAT IS CRITICAL, THAT THE STAFF
15 UNDERSTANDS HOW COMMITTED THIS BOARD IS, ALL THE
16 MEMBERS OF THIS BOARD TO MOVING FORWARD. AND IT'S WHY
17 THIS PROCESS WORKS AS WELL AS IT DOES.

18 CHAIRMAN PENNINGTON: THANK YOU, MEMBER JONES.
19 SECRETARY, PLEASE CALL THE ROLL.

20 THE SECRETARY: BOARD MEMBER EATON?

21 MEMBER EATON: AYE.

22 THE SECRETARY: FRAZEE?

23 MEMBER FRAZEE: AYE.

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1 THE SECRETARY: JONES?
2 MEMBER JONES: AYE.
3 THE SECRETARY: CHAIRMAN PENNINGTON?
4 CHAIRMAN PENNINGTON: AYE.
5 THE MOTION CARRIES.
6 MEMBER EATON: MR. CHAIR?
7 CHAIRMAN PENNINGTON: YES?
8 MEMBER EATON: IS IT APPROPRIATE NOW THAT THIS
9 IS PASSED TO DISCUSS DATES FOR THOSE MEETING --
10 CHAIRMAN PENNINGTON: SURE.
11 MEMBER EATON: -- OR, I MEAN, NOT SO MUCH -- BUT
12 I THINK BECAUSE OF THE OTHER MEETING, SOME OF OUR
13 CALENDARS ARE ALREADY SET, AND I THINK THIS BECOMES
14 EFFECTIVE IMMEDIATELY.
15 CHAIRMAN PENNINGTON: RIGHT.
16 MEMBER EATON: AND AS IT SHOULD. BUT, WHETHER
17 OR NOT WE'RE GOING TO COMBINE THE TWO BOARD MEETINGS
18 ON THE SPECIAL BOARD MEETING DAY AND THE REGULAR
19 MEETING, OR A DIFFERENT DAY. I THINK JUST IF WE CAN
20 KIND OF JUST --
21 CHAIRMAN PENNINGTON: RIGHT. I'M GLAD YOU
22 RAISED THAT, BECAUSE I WAS ABOUT TO SAY THAT ONE OF
23 THE THINGS I'D LIKE TO DO IS DIRECT THE STAFF TO

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1 CANCEL THE MEETINGS CURRENTLY NOTICED FOR AUGUST, AND
2 MOVE THE ITEMS INTO ONE OF THE TWO BOARD MEETINGS
3 DURING THE MONTH OF AUGUST.

4 I HAVE A PROPOSED SCHEDULE THAT WE DON'T
5 HAVE TO AFFIRM NOW, BUT I'VE GOT AUGUST 13TH AND 26TH,
6 SEPTEMBER 9TH AND THE 23RD, OCTOBER --

7 MEMBER EATON: WAIT, WAIT, WAIT.

8 CHAIRMAN PENNINGTON: SURE.

9 MS. TOBIAS: EXCUSE ME.

10 MEMBER EATON: 8/24, TOO.

11 CHAIRMAN PENNINGTON: 8/24, YEAH.

12 MEMBER EATON: BECAUSE WE HAVE A SPECIAL BOARD
13 MEETING. JUST TO KIND OF GET --

14 MS. TOBIAS: YEAH, I NEED THE 24TH, IT'S A
15 TIMING PROBLEM.

16 CHAIRMAN PENNINGTON: OKAY.

17 MS. TOBIAS: OR, RATHER I SHOULD SAY NOT A
18 PROBLEM BUT A TIMING ISSUE. SO, THE SPECIAL BOARD
19 MEETING NEEDS TO STAY ON THE 24TH.

20 CHAIRMAN PENNINGTON: YEAH, IT WILL.

21 MS. TOBIAS: OKAY.

22 CHAIRMAN PENNINGTON: IT WILL. YEAH.

23 MEMBER EATON: SEPTEMBER 9TH IS ADMISSIONS DAY,

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1 IS THAT STILL A STATE HOLIDAY?

2 MS. TOBIAS: NO.

3 CHAIRMAN PENNINGTON: I DON'T BELIEVE SO.

4 MEMBER EATON: 9/9, AND WHAT'S THE OTHER --

5 MS. TOBIAS: ACTUALLY, THAT WAS EXCHANGED FOR A
6 DIFFERENT HOLIDAY, SO.

7 CHAIRMAN PENNINGTON: 10/9 AND 10/23 -- I'M
8 SORRY, 9/9 AND 9/23. AND THEN 10/6, WHICH IS OCTOBER
9 6TH, AND 10/21, NOVEMBER -- 11/4 AND 11/18, AND
10 DECEMBER 2, 12/2 AND 16.

11 MEMBER EATON: IS 11/4 THE DAY AFTER THE
12 ELECTION?

13 CHAIRMAN PENNINGTON: IS IT REALLY?

14 MEMBER EATON: I THINK SO. WE MAY WANT TO JUST
15 -- NOT CAST THEM IN STONE, WE MAY ALL BE TRAVELING
16 FROM DIFFERENT DIRECTIONS. AND WE MAY NOT BE IN THE
17 MOST, SHALL WE SAY, PROPER STATE IN WHICH TO --

18 CHAIRMAN PENNINGTON: RIGHT, I WAS GOING TO SAY,
19 MAYBE WE SHOULDN'T START THAT MEETING UNTIL NOON OR
20 SOMETHING, HUH?

21 MS. TOBIAS: MR. PENNINGTON, I DIDN'T HEAR WHEN
22 THE AUGUST ONES ARE. ARE WE JUST --

23 CHAIRMAN PENNINGTON: THE AUGUST ONES WILL BE --

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1 WE'VE GOT AUGUST 13 --

2 MS. TOBIAS: OH, OKAY, THANKS.

3 CHAIRMAN PENNINGTON: -- AUGUST 24 FOR THE
4 SPECIAL, AND AUGUST 26TH.

5 MS. TOBIAS: OKAY. THANK YOU.

6 CHAIRMAN PENNINGTON: SURE.

7 MEMBER EATON: AND IF WE JUST -- IF YOU WOULD
8 CIRCULATE THOSE. I THINK THE ONLY PROBLEM THAT I KNOW
9 OF RIGHT NOW IS ON THE 13TH I'LL NEED A LITTLE BIT OF
10 TIME, SO IF WE STARTED NOT AT PERHAPS 9:30, JUST
11 ADJUSTING THE TIME, I THINK I WOULD BE ABLE TO BE
12 THERE.

13 CHAIRMAN PENNINGTON: OKAY.

14 MEMBER EATON: BUT WE CAN DISCUSS THAT AS WELL.

15 CHAIRMAN PENNINGTON: SURE.

16 MEMBER EATON: BUT THAT'S HELPFUL, AND I THANK
17 YOU.

18 MEMBER JONES: MR. CHAIRMAN?

19 CHAIRMAN PENNINGTON: YES, MEMBER JONES?

20 MEMBER JONES: I KNOW THAT YOU'RE GOING TO BE
21 WORKING WITH THE EXECUTIVE STAFF AND EVERYBODY TO TRY
22 TO FIGURE OUT, BUT I'M HOPING THAT WHAT WE SAW IN
23 COMMITTEE MEETINGS AS FAR AS THE FULLNESS -- AND I

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1 THINK YOU GUYS HAVE TO HAVE SOME DISCUSSIONS ABOUT THE
2 BRIEFINGS.

3 ONE OF THE ITEMS THAT WE BROUGHT UP AT THE
4 ADMIN MEETING WAS THAT NOW THAT THERE IS NO
5 COMMITTEES, IF WE DO NOT DELIBERATE ON CERTAIN
6 BRIEFING FUNCTIONS MORE THAN ONE OF US CAN GO,
7 ACTUALLY THREE OF US COULD GO.

8 BUT WE JUST HAVE TO DISCLOSE -- RIGHT? I
9 MEAN, AM I -- I JUST WANTED YOU GUYS TO THINK ABOUT IT
10 BECAUSE IT IS A DOST SAVINGS ISSUE. I THINK I HAD
11 SAID TWO AND SOMEBODY SAID THREE. SO, WHERE WE CAN
12 GET BRIEFINGS AND WE JUST HAVE TO ACKNOWLEDGE IF WE
13 ASK QUESTIONS TO THE PUBLIC WHAT THE ISSUES WERE THAT
14 WE RAISED QUESTIONS ABOUT, IF THEY WOULD BE ANY
15 DIFFERENT THAN THE ITEM.

16 BUT, IT WOULD SEEM TO ME IT WOULD BE A WAY
17 TO MOVE EVEN MORE INTO STREAMLINING AND SAVING OUR
18 STAFF'S TIME IF THEY COULD DEAL WITH THREE OF US AT
19 ONE TIME, IF WE COULD EVER FIND OUR CALENDARS TO
20 COINCIDE.

21 CHAIRMAN PENNINGTON: WELL, I THINK YOU'RE
22 RIGHT, AND I THINK THAT THERE ARE LOTS OF ADJUSTMENTS
23 THAT HAVE TO BE MADE, AND THAT'S WHY WE'RE GOING TO DO

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1 THIS ON A TRIAL BASIS AND WHY WE'RE GOING TO LOOK AT
2 IT AGAIN IN JANUARY AND SEE IF IT'S BEEN SUCCESSFUL.
3 IF WE FIND THAT IT'S WORKING WELL WE MAY CHOOSE TO DO
4 IT, OR WE MAY CHOOSE TO MAKE SOME MODIFICATIONS, OR WE
5 MAY CHOOSE TO GO BACK TO THE OLD STRUCTURE. SO, WE
6 WILL BE TRYING TO REFINE IT AND MAKE SURE THAT
7 EVERYBODY IS FULLY INFORMED AND THAT WE HAVE AN
8 OPPORTUNITY TO HAVE AN OPEN DISCUSSION OF A LOT OF
9 ITEMS.

10 MEMBER EATON: AND JUST FOR THE RECORD, THE
11 GOVERNMENTAL EFFICIENCY EXPERT WHO SUGGESTED THREE WAS
12 ONE JEFF DANZINGER.

13

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2

3 CHAIRMAN PENNINGTON: OKAY, FOLKS, SHALL WE COME
4 BACK TO ORDER?

5

6 LET'S SEE, NOW WE'RE GOING TO TAKE UP ITEM
7 10: CONSIDERATION OF OPTIONS RELATING TO
8 IMPLEMENTATION OF THE PERMIT CONSOLIDATION ZONE PILOT
9 PROGRAM, SB 1299 PEACE 1995. DOROTHY RICE.

10

11 AGENDA ITEM NO. 10: CONSIDERATION OF OPTIONS
12 RELATING TO IMPLEMENTATION OF THE PERMIT
13 CONSOLIDATION ZONE PILOT PROGRAM
14 (SB 1299 PEACE 1995)

15 MS. RICE: THANK YOU. SUZANNE HAMBLETON WILL
16 MAKE THIS PRESENTATION.

17 MS. HAMBLETON: GOOD AFTERNOON. FOR THE RECORD,
18 MY NAME IS SUZANNE HAMBLETON. THIS AGENDA ITEM
19 SUMMARIZES THE PERMIT CONSOLIDATION ZONE PILOT PROGRAM
20 AND REQUESTS THAT ULTIMATELY THE BOARD MAKE SOME
21 DECISIONS THAT WILL BE DESCRIBED LATER.

22 THIS ITEM WAS FORWARDED TO THE BOARD TODAY
23 FROM THE P&E COMMITTEE WITH NO RECOMMENDATION.

THE 1299 STATUTE WAS SIGNED IN 1995,
REGULATIONS WERE PROMULGATED IN THE SPRING OF 1997.

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1 IN THE SUMMER OF 1997 REPRESENTATIVES FROM TRADE AND
2 COMMERCE, AND CAL EPA BOARDS AND DEPARTMENTS, AND
3 OTHER ENVIRONMENTAL PERMITTING STATE AGENCIES WERE
4 ASKED TO ASSIST WITH THE IMPLEMENTATION OF THE
5 PROGRAM.

6 THE PILOT PROGRAM IS INTENDED TO STREAMLINE
7 CALIFORNIA'S ENVIRONMENTAL PERMITTING PROCESS WHILE
8 PRESERVING CALIFORNIA'S COMMITMENT TO A SAFE AND
9 HEALTHFUL ENVIRONMENT. THE MAJOR COMPONENTS OF SB
10 1299 ARE THE CREATION OF PERMIT CONSOLIDATION ZONES
11 AND THE ALLOWANCE OF A SINGLE FACILITY COMPLIANCE PLAN
12 IN LIEU OF EXISTING ENVIRONMENTAL PERMITS FOR NEW AND
13 EXPANDING FACILITIES.

14 THE PERMIT CONSOLIDATION ZONE PILOT PROGRAM
15 IS IN EFFECT UNTIL THE YEAR 2002 UNLESS ANOTHER PIECE
16 OF LEGISLATION DELETES OR EXTENDS THIS DATE.

17 OUR PERMIT CONSOLIDATION ZONE IS A
18 GEOGRAPHIC AREA CONTIGUOUS OR NON-CONTIGUOUS
19 DESIGNATED WITHIN THE JURISDICTION OF A CITY OR
20 CITIES, OR COUNTY OR COUNTIES, OR BOTH. THE APPROVAL
21 OF THE ZONE IS BASED ON RECOMMENDATION BY A REVIEW
22 PANEL.

23 EACH ZONE ENTERS INTO A MEMORANDUM OF

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1 UNDERSTANDING WITH PARTICIPATING ENVIRONMENTAL
2 PERMITTING AGENCIES. THE MOUS SPECIFY THE TYPES OF
3 FACILITIES THAT ARE ELIGIBLE TO OPERATE UNDER THE
4 AUTHORITY OF A PERMIT OF A FACILITY COMPLIANCE PLAN.

5 WITHIN A ZONE, A ZONE ADMINISTRATOR IS
6 DESIGNATED AND RESPONSIBLE FOR ADMINISTRATION OF THE
7 PROGRAM.

8 HERE IS A LIST OF THE ZONE APPLICANTS.
9 THEY ARE: THE COUNTY OF FRESNO; THE COUNTY OF KERN,
10 MINUS THE CITY OF BAKERSFIELD; THE CITY OF
11 BAKERSFIELD; AND THE CITIES OF SOUTHERN ORANGE COUNTY.

12 THESE FOUR APPLICATIONS ARE PENDING APPROVAL BASED ON
13 SUBMITTAL OF SIGNED MOUS.

14 WITHIN A DESIGNATED ZONE A PROJECT
15 APPLICANT WITH A NEW OR EXPANDING FACILITY COULD
16 VOLUNTARILY OPT TO SUBSTITUTE A FACILITY COMPLIANCE
17 PLAN IN LIEU OF EXISTING ENVIRONMENTAL PERMITS. THE
18 FACILITY COMPLIANCE PLAN MUST MEET THE REQUIREMENTS OF
19 ALL THE INDIVIDUAL ENVIRONMENTAL PERMITS THAT WOULD
20 OTHERWISE BE REQUIRED. THE PLAN DOES NOT ABROGATE THE
21 CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE PERMITTING
22 AUTHORITY MAY ADD CONDITIONS BASED ON STATUTE,
23 REGULATIONS OR LOCAL ORDINANCES.

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1 THE FACILITY COMPLIANCE PLAN HAS A REVIEW
2 PROCESS WHERE INDIVIDUAL AGENCIES DETERMINE ADEQUACY
3 AND COMPLETENESS OF THE PLAN WITHIN 45 DAYS OF
4 RECEIPT. THERE HAS BEEN ADDITIONAL LANGUAGE THAT HAS
5 BEEN ADDED TO THE MOU THAT PROVIDES FOR SUBMITTAL OF A
6 DRAFT FACILITY COMPLIANCE PLAN AND THE DETERMINATION
7 OF COMPLETENESS AND ADEQUACY AT THE STAFF LEVEL BEFORE
8 THE OFFICIAL 45-DAY TIME LINE COMMENCES.

9 THE FACILITY COMPLIANCE PLAN MUST PROVIDE
10 EQUIVALENT OPPORTUNITY FOR PUBLIC PARTICIPATION,
11 NOTICE, AND ADMINISTRATIVE APPEAL REQUIRED BY THE
12 REVIEW PROCESS THAT WOULD OTHERWISE BE USED.

13 THE 45-DAY TIME FRAME MAYBE WAIVED IF
14 MUTUALLY AGREED TO BY THE PLAN APPLICANTS AND
15 PERMITTING AUTHORITY. THIS IS A FACILITY COMPLIANCE
16 TIME LINE. THE TOP BOX SHOWS THAT A PLAN APPLICANT
17 ISSUES A NOTICE OF INTENT TO BE PREPARED BY EACH
18 PARTICIPATING PERMITTING AUTHORITY.

19 THE NOTICE OF INTENT IS SUBMITTED AT LEAST 60
20 DAYS BEFORE THE SUBMITTAL OF THE PLAN. THE NOTICE
21 CONTAINS THE PROJECT DESCRIPTION, AMONG OTHER THINGS.

22 THE ZONE ADMINISTRATOR MUST FACILITATE
23 DISCUSSION BETWEEN THE APPLICANT AND THE PERMITTING

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1 AGENCIES DURING THE PERIOD WHEN THE PLAN IS BEING
2 PREPARED.

3 THE SECOND BOX SHOWS THAT, SUBSEQUENT TO
4 THE NOTICE OF INTENT AND PRIOR TO SUBMITTING THE
5 PROPOSED FACILITY COMPLIANCE PLAN, THE PLAN APPLICANT
6 SUBMITS A DRAFT FACILITY COMPLIANCE PLAN CONCURRENTLY
7 TO THE ZONE ADMINISTRATOR AND THE PERMITTING
8 AUTHORITIES. THE ZONE ADMINISTRATOR SOLICITS PUBLIC
9 COMMENT ON THE DRAFT PLAN AND DISTRIBUTES ALL COMMENTS
10 TO EACH PERMITTING AUTHORITY.

11 THE PLAN APPLICANT MODIFIES THE DRAFT IN
12 RESPONSE TO THE COMMENTS RECEIVED PRIOR TO SUBMITTING
13 THE PROPOSED PLAN TO THE PERMITTING AUTHORITIES FOR
14 APPROVAL.

15 THE THIRD BOX SHOWS THE APPLICANT AS
16 SUBMITTING THE PROPOSED FACILITY COMPLIANCE PLAN TO
17 THE ZONE ADMINISTRATOR IN EACH OF THE PERMITTING
18 AGENCIES. THE PERMITTING AGENCIES APPROVE OR
19 DISAPPROVE THE FACILITY COMPLIANCE PLAN WITHIN 45
20 DAYS. THE DETERMINATION IS SUBMITTED TO THE ZONE
21 ADMINISTRATOR AND THE PLAN APPLICANT BY THE 45TH DAY.

22 IF DISAPPROVED, THE PERMITTING AUTHORITY
23 MUST SPECIFY WHY THE PLAN IS DEFICIENT. AFTER

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1 RESUBMITTAL THE PERMITTING AUTHORITY HAS 30 DAYS TO
2 APPROVE OR DISAPPROVE THE PLAN. THE PLAN APPLICANT
3 MAY CHOOSE TO APPEAL THE DECISION, IF THE DECISION WAS
4 DISAPPROVAL, TO THE PERMITTING AUTHORITY.

5 OKAY. THERE'S A FEW THINGS THAT THE BOARD
6 NEEDS TO CONSIDER TODAY. WHICH OF THE SOLID WASTE
7 PERMITS ARE ELIGIBLE FOR THE PROGRAM? AND, IF THE
8 BOARD DETERMINES THAT SOME OF THE PERMIT TIERS ARE
9 ELIGIBLE HOW WOULD THIS BE HANDLED? DOES THE MEMO OF
10 UNDERSTANDING ADDRESS THE BOARD CONCERNS? AND, WHAT
11 IS THE BOARDS ROLE IN THE APPROVAL OF THE FACILITY
12 COMPLIANCE PLAN?

13 OKAY. WHICH OF THE PERMITS ARE ELIGIBLE?
14 CURRENTLY THE REGISTRATION STANDARDIZING FULL PERMITS
15 ARE POTENTIALLY ELIGIBLE FOR THE PILOT PROGRAM. OR,
16 ANOTHER OPTION IS TO SELECT -- OR, AN OPTION IS TO
17 SELECT THE REGISTRATION PERMIT AS AN ELIGIBLE TIER AND
18 SELECT THE STANDARDIZED AND FULL PERMIT TIERS AS
19 ELIGIBLE ON A CASE-BY-CASE BASIS.

20 HOW WOULD THE CASE-BY-CASE DECISIONS BE
21 DETERMINED? WOULD ELIGIBILITY OF THE FACILITY BE
22 DETERMINED AT A MEETING OF THE BOARD, OR COULD THAT
23 DECISION BE DELEGATED TO THE EXECUTIVE DIRECTOR?

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1 THE QUESTION, DOES THE MOU ADDRESS BOARD
2 CONCERNS? THERE ARE TWO AREAS OF THE MOU THAT WARRANT
3 SOME DISCUSSION. ONE I'VE ALREADY TOUCHED UPON IS
4 WHICH PERMITS ARE ELIGIBLE TO BE SUBSTITUTED BY A
5 FACILITY COMPLIANCE PLAN.

6 AND THEN THE APPEAL PROCESS THAT WOULD BE
7 USED BY THE APPLICANT. IF A PLAN APPLICANT CHOSE TO
8 APPEAL THE DECISION OF A PERMITTING AUTHORITY, THE
9 LANGUAGE IN SB 1299 STATUTE AND REGULATION ALLOW FOR
10 PERMITTING AUTHORITY TO USE THEIR EXISTING APPEAL
11 PROCESS. HOWEVER, THE STATUTE STATES THAT THE PROCESS
12 MUST BE CONCLUDED IN 60 DAYS.

13 THE SOLID WASTE APPEAL PROCESS, WHICH IS
14 THE AB 59 PROCESS, IS A TWO-PHASE PROCESS COMMENCING
15 WITH THE LOCAL HEARING PANEL, WHICH TAKES AT LEAST 70
16 DAYS. AND IF THE APPELLATE CHOOSES TO APPEAL THAT
17 DECISION OF THE LOCAL HEARING PANEL TO THE BOARD IT
18 CAN TAKE UP TO AN ADDITIONAL 90 DAYS.

19 THE STAFF WOULD LIKE TO ADD ADDITIONAL
20 LANGUAGE TO THE MOU TO ENSURE THAT WE WOULD USE THE
21 WASTE BOARD'S PROCESS. ON PAGE 10-23 OF YOUR PACKET,
22 WHICH IS THE MOU, NUMBER NINE, WE WOULD LIKE TO ADD
23 THE ADDITIONAL LANGUAGE -- I THINK THAT'S BEEN PASSED

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1 OUT -- STARTING AT THE END OF NUMBER NINE. AND IT
2 WOULD READ:

3 "THE APPEAL PROCESS FOR THE CALIFORNIA
4 INTEGRATED WASTE MANAGEMENT BOARD, FOR A FINDING
5 OF INADEQUACY, MAY TAKE LONGER THAN 60 DAYS AS
6 PROVIDED IN PUBLIC RESOURCES CODE SECTIONS 44.300,
7 *ET SEQ.* THE WASTE BOARD'S PARTICIPATION IN THE
8 FACILITY COMPLIANCE PLAN PROCESS IS CONDITIONED
9 UPON AGREEMENT AMONG THE PARTIES PRIOR TO ITS
10 DECISION TO PARTICIPATE, AND THAT THE WASTE BOARD
11 STATUTORY TIME FRAMES FOR APPEAL PROCESS FOUND IN
12 PUBLIC RESOURCES CODE SECTIONS 44.300, *ET SEQ.*,
13 ARE CONTROLLING."

14 IF A PLAN APPLICANT CHOSE TO APPEAL
15 CONDITIONS OF THE FACILITY COMPLIANCE PLAN AFTER THE
16 APPROVAL OF THE PLAN THEN THE APPEAL PROCESS WOULD BE
17 THE CURRENT AB 59 PROCESS, THE 1299 STATUTE IS SILENT
18 ON TERMS OF APPEALING CONDITIONS AFTER A PLAN HAS BEEN
19 APPROVED.

20 ADDITIONALLY, IN NUMBER 13 OF THE
21 AGREEMENT, WHICH IS NOW ON PAGE 10-24, THE STAFF WOULD
22 LIKE TO ADD LANGUAGE TO MAKE SURE THE AGREEMENT DOES
23 NOT TAKE EFFECT FOR ANY AGENCY UNTIL THAT AGENCY SIGNS

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1 THE AGREEMENT.

2 OKAY. ANOTHER DECISION THAT HOPEFULLY WILL
3 BE MADE IS WHAT IS THE BOARD'S ROLE IN THE APPROVAL OF
4 THE FACILITY COMPLIANCE PLAN. WOULD THE BOARD LIKE TO
5 CONSIDER THE CONCURRENCE OF THE PLAN AT A MEETING OF
6 THE BOARD, OR COULD THIS BE DELEGATED TO THE EXECUTIVE
7 DIRECTOR?

8 IN SUMMARY, THE DECISIONS FOR THE BOARD
9 ARE: TO DETERMINE WHICH SOLID WASTE PERMITS ARE
10 ELIGIBLE, THE REGISTRATION TIER, THE STANDARDIZED
11 TIER, THE FULL TIER, AND IF SO, ON WHAT BASIS, AND
12 SOME COULD BE ELIGIBLE ON A
13 CASE-BY-CASE BASIS.

14 FOR THE PERMIT TIERS THAT ARE ELIGIBLE ON A
15 CASE-BY-CASE BASIS HOW WOULD THE BOARD LIKE TO HANDLE
16 THESE? WOULD THEY LIKE TO BE HANDLED AT, AS I SAID, A
17 MEETING OF THE BOARD OR DELEGATED TO THE EXECUTIVE
18 DIRECTOR?

19 WE NEED TO DECIDE WHETHER OR NOT WE ARE
20 GOING TO SIGN THE AGREEMENTS. AND WE ARE GOING TO
21 HOPEFULLY DETERMINE HOW TO CONCUR WITH THE -- OR,
22 DETERMINE HOW CONCURRENCE WITH THE FACILITY COMPLIANCE
23 PLAN WILL OCCUR, THROUGH A MEETING OF THE BOARD OR CAN

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1 THAT BE A DELEGATION.

2 THE BOARD MAY CHOOSE TO COME UP WITH OTHER
3 OPTIONS, OR TAKE NO ACTION.

4 AND, IN SUMMARY, THESE ARE THE QUESTIONS
5 THAT STAFF WOULD LIKE TO BE ANSWERED TODAY. I THINK
6 I'LL JUST LEAVE THAT UP THERE.

7 I'D LIKE TO SAY THAT MS. CHRIS KENNEY OF
8 CAL EPA IS IN ATTENDANCE TODAY IN CASE YOU HAVE
9 QUESTIONS OF CAL EPA. AND THIS CONCLUDES MY
10 PRESENTATION.

11 CHAIRMAN PENNINGTON: QUESTIONS OF STAFF?
12 MEMBER EATON?

13 MEMBER EATON: YES. THE 70 AND 90 DAYS OF AB 59
14 IS STATUTE. CORRECT?

15 MS. HAMBLETON: YES. IT'S NOT EXACTLY 70 AND
16 90, BUT IT'S APPROXIMATELY THOSE AMOUNT OF DAYS.

17 MEMBER EATON: AND THE 60 DAYS THAT IS CONTAINED
18 WITHIN SB 1299, THAT'S STATUTORY AS WELL?

19 MS. HAMBLETON: CORRECT.

20 MEMBER EATON: SO IF THERE WERE A CONFLICT
21 BETWEEN THE TWO WHICH WOULD BE CONTROLLING?

22 MS. HAMBLETON: I DEFER.

23 MS. TOBIAS: IS THAT A RHETORICAL QUESTION,

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1 MEMBER EATON? YOU PROBABLY KNOW BETTER THAN I DO.

2 IN THE CASE -- BASICALLY WHAT HAPPENS IS
3 WHEN YOU HAVE CONFLICT BETWEEN STATUTES YOU'D HAVE TO
4 GO THROUGH THE STANDARD TEST, WHICH IS TO DECIDE IS
5 THERE A WAY TO MAKE THEM BOTH WORK AT THE SAME TIME,
6 WHAT'S THE AMBIGUITY, ET CETERA. THERE'S A WHOLE TEST
7 THAT YOU GO THROUGH BEFORE YOU FIND THAT THERE IS
8 TRULY A CONFLICT. SO IT'S SOMETHING THAT WE MIGHT BE
9 SITTING IN COURT ON.

10 MEMBER EATON: THE OTHER THING IS, I HAVE A
11 PROBLEM WITH THE DEFINITION OF CASE-BY-CASE, BECAUSE
12 THAT MEANS A LOT OF DIFFERENT THINGS TO A LOT OF
13 DIFFERENT PEOPLE. AND I WAS WONDERING IF EITHER
14 STAFF, OR EXECUTIVE STAFF, OR LEGAL COUNSEL COULD KIND
15 OF GIVE ME A DEFINITION. I'VE BEEN HERE AS TO WHAT
16 THAT KIND OF MEANS.

17 DOES THAT MEAN THAT WE WOULD -- WELL, LET
18 ME JUST ASK THE QUESTION.

19 MR. CHANDLER: I THINK IT'S A GOOD QUESTION,
20 BECAUSE I HAVE HEARD THIS 1299 PROCESS BE REPRESENTED
21 THAT IT IS A CASE-BY-CASE, IF YOU WILL, REVIEW OF THE
22 PROJECTS THAT COME FORWARD. AND, THEREFORE, THAT IT
23 KIND OF GOES WITHOUT SAYING THAT THE BOARD WOULD HAVE

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1 THE RIGHT ON A CASE-BY-CASE -- SHOULD, LET'S SAY, WE
2 SELECT SOME TIER LEVEL, THAT THEY WOULD COME THROUGH
3 THE BOARD ON A CASE-BY-CASE BASIS.

4 I THINK WHAT LENDS ITSELF TO SOME
5 INTERPRETATION, THOUGH, WOULD BE AT WHAT POINT DOES
6 THE BOARD TAKE UP ON A CASE-BY-CASE THE ISSUE OF
7 WHETHER WE WANT TO SEE A PARTICULAR PERMIT IN SOME
8 PARTICULAR TIER COME THROUGH THIS COMPLIANCE PROCESS
9 UNDER 1299.

10 I WOULD HATE TO HAVE A PROCESS COMPLETE
11 ITSELF, A COMPLIANCE PLAN PUT FORWARD, AND THEN IT
12 COME TO THE BOARD ON A CASE-BY-CASE REVIEW AND HAVE AT
13 THAT TIME US SAY, WELL, IN THIS PARTICULAR CASE WE'RE
14 NOT COMFORTABLE WITH THIS COMPLIANCE PLAN APPROACH SO
15 WE WOULD LIKE TO SEE IT BE HANDLED MORE TRADITIONALLY.

16 I THINK THE CASE-BY-CASE REVIEW, IF THERE'S
17 GOING TO BE ONE, SHOULD OCCUR VERY EARLY IN THE
18 PROCESS, WHERE WHEN AN LEA HEARS FROM AN OPERATOR THAT
19 THEY HAVE AN EXPANSION OF A FACILITY, OR A NEW
20 COMPOSTING OPERATION AND THEY'D LIKE TO BRING IT
21 THROUGH THIS PROCESS, BEFORE ANY COMPLIANCE WORK IS
22 EVEN DEVELOPED THAT SOMEHOW THERE BE A NOTIFICATION
23 PROCESS TO US, AND WE CAN RENDER A DECISION RIGHT

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1 THERE. THAT ON THIS PARTICULAR CASE WE ARE
2 COMFORTABLE OR NOT COMFORTABLE IN HAVING THAT PERMIT
3 PROCEED FORWARD UNDER THE 1299 PROCESS, OR PROCEED
4 FORWARD UNDER OUR PROCESS.

5 SO, I THINK IT'S A GOOD QUESTION, BECAUSE I
6 THINK THE CASE-BY-CASE HAS SOMETIMES BEEN -- AT LEAST
7 EXPLAINED TO ME, THAT IT WOULD OCCUR MORE --

8 MEMBER EATON: AT THE LATTER END OF THE PROCESS?

9 MR. CHANDLER: -- AS THE PROJECTS COME FORWARD,
10 UNDER THIS PROCESS IT WOULD THEN BE BEFORE THE BOARD
11 ON A CASE-BY-CASE BASIS. AND I DON'T KNOW HOW THAT
12 WOULD ALL WORK OUT.

13 MS. TOBIAS: I THINK THAT THIS WOULD HAVE TO
14 OCCUR AT THE START OF THE PROCESS, THAT YOU COULDN'T
15 BASICALLY GO INTO IT AND PULL IT BACK OUT. SO I THINK
16 THERE WOULD HAVE TO BE SOME KIND OF MECHANISM.

17 AND MAYBE SUZANNE WANTS TO SPEAK TO THAT IN
18 TERMS OF DECIDING WHEN SOMEBODY COMES IN AND SAYS
19 WE'RE READY TO START THIS, AND WE WANT TO GO THROUGH
20 THIS PROCESS, BASICALLY EITHER THE EXECUTIVE DIRECTOR
21 OR SOMEBODY DECIDES, YES, THAT'S FINE.

22 I DON'T KNOW IF WE'RE ANTICIPATING EACH ONE
23 OF THOSE COMING TO THE BOARD. I THINK THAT GETS INTO

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1 KIND OF AN INTERESTING QUESTION AS TO ARE WE HELPING
2 EXPEDITE THIS PROCESS, OR IS THIS ACTUALLY A LONGER
3 PROCESS THAN JUST GETTING IN AND GETTING YOUR PERMIT.
4 SO, I THINK THAT HAS TO BE KIND OF TAKEN INTO ACCOUNT
5 ON THAT --

6 MS. RCE: THE ONLY THING THAT I WOULD ADD IS I
7 THINK THAT'S WHY WE'RE BRINGING ALL THESE DIFFERENT
8 SPECIFIED DECISIONS.

9 THE FIRST ONE WAS A BIGGER DECISION OF ALL
10 THE TYPES OF PERMITS THAT THE BOARD CURRENTLY CONCURS
11 IN, WHICH ARE YOU INTERESTED IN HAVING BE PART OF THIS
12 PROGRAM, GENERALLY, NOT ON THE CASE-BY-CASE BASIS, IF
13 THERE ARE ANY.

14 IF THERE AREN'T, WE WERE LOOKING FOR A
15 DECISION POINT THERE IN TERMS OF, SAY, YOU'RE TALKING
16 ABOUT THE FULL PERMIT. IF YOU WOULD ONLY BE
17 COMFORTABLE LOOKING AT THAT ON A CASE-BY-CASE BASIS,
18 WHAT I BELIEVE WE ENVISIONED WAS AN APPLICANT COMES
19 FORWARD AND IS INTERESTED IN
20 USING THIS PROCESS FOR A PARTICULAR FULL PERMIT. SAY
21 IT'S A LANDFILL, YOU WOULD DETERMINE ON A CASE-BY-CASE
22 BASIS WHETHER YOU WANTED THAT FACILITY TO GO THROUGH
23 THE PROCESS.

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1 IN OTHER WORDS, THE FIRST DECISION WAS WHAT
2 PERMITS ARE GENERICALLY IN AND WHICH
3 ARE DEALT WITH ON A CASE-BY-CASE BASIS. AND THEN THE
4 SECOND QUESTION IS, ONCE YOU'VE DECIDED THE CASE-BY-
5 CASE WHAT IS THE PROCESS FOR DOING THAT. DO YOU BRING
6 IT TO THE BOARD FOR THAT DECISION, OR IS THERE SOME
7 OTHER PROCESS?

8 CHAIRMAN PENNINGTON: MEMBER JONES?

9 MEMBER JONES: I THINK THAT THAT ILLUSTRATION OF
10 A LANDFILL IS PROBABLY THE BEST ILLUSTRATION. THE WAY
11 I READ THIS PROCESS, SOMEBODY DOES A COMPLIANCE PLAN,
12 GETS IT TO US, AND GETS IT TO EVERY AFFECTED AGENCY,
13 AND THEY HAVE 45 DAYS TO ACT. OKAY?

14 SWEETESER LEFT THE ROOM. BUT, OSTROMROAD
15 (PHONETIC) TOOK NINE YEARS --

16 MR. CHANDLER: 13 TOTAL

17 MEMBER JONES: BUT, I MEAN, NINE WHEN WE
18 KICKED IT UP? NINE YEAWE'RE TALKING ABOUT 45 DAYS.
19 NOW, NINE YEARS IS ENTIRELY TOO LONG, THERE'S NO DOUBT
20 ABOUT IT. FORTY-FIVE DAYS, IT SENDS SHIVERS UP MY
21 SPINE, BECAUSE IT WILL LEND ITSELF TO LAW SUITS. IT
22 TALKS ABOUT THE PEOPLE'S RIGHT TO BE INCLUDED IN THE
23 PROCESS. OKAY?

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1 I HAVE A PROBLEM WITH THAT DISPARITY. I
2 DON'T HAVE ANY PROBLEM WITH TRYING TO MAKE THINGS
3 EASIER, MOVE ALONG. BUT IN THE CASE OF LANDFILL THERE
4 ARE TRULY MULTIPLE STATE AGENCIES INVOLVED. THERE'S
5 THE WATER BOARD AND THE WASTE BOARD, AND UNDER 1220
6 THEY CAN WRITE A JOINT TECHNICAL DOCUMENT. RIGHT?
7 WHICH I THINK THERE'S STATUTE ON, AND REGS, AND ALL
8 SORTS OF LITTLE FORMATS. THE AIR BOARD WOULD PROBABLY
9 GET INVOLVED, AND TOXICS WOULD GET INVOLVED. SO THAT
10 KIND OF MAKES SENSE TO ME, THAT YOU DO SOMETHING THERE
11 THAT INCLUDES A LOT OF PEOPLE INSTEAD OF JUMPING
12 THROUGH A LOT OF HOOPS.

13 WHERE I HAVE A PROBLEM IS THAT OUR PROCESS
14 RIGHT NOW, IF YOU WERE GOING TO BRING A TRANSFER
15 STATION FORWARD, YOU WOULD GET A CONDITIONAL USE
16 PERMIT LOCALLY, YOU WOULD GO OUT AND YOU WOULD TALK TO
17 THE LEA. YOU WOULD PROBABLY HAVE TO GO OUT AND TALK
18 TO A LOCAL AIR QUALITY DISTRICT JUST TO MAKE THEM
19 AWARE. YOU'D HAVE TO DO A LOT OF THINGS. BUT THE
20 ONLY PERSON THAT GIVES THE PERMIT IS THIS BOARD. THE
21 ONLY ONE THAT CONCURS WITH THAT PERMIT IS THIS BOARD.

22 BUT, UNDER THE MOU, BECAUSE THERE ARE OTHER
23 LOCAL AGENCIES THAT HAVE OVERSIGHT, DOES THAT MEAN

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1 THAT OUR NORMAL FUNCTION OF CONCURRING AND NOT
2 CONCURRING WITH PERMITS IN A FORMAT THAT WE DEAL WITH
3 GETS THROWN OUT?

4 AND THAT -- WELL, YOU SAY NO. TELL ME WHY
5 NO.

6 MS. HAMBELTON: WELL, THE STATUTE SAYS THAT
7 ANYTHING THAT WE WOULD HAVE NORMALLY DONE WE STILL DO.

8 MEMBER JONES: WHICH IS CONCUR OR NOT CONCUR.

9 MS. HAMBLETON: RIGHT. SO THAT WOULD OCCUR.
10 THEN THE ONLY THING THAT -- THAT WOULD ONLY BE IN THE
11 45 DAYS. IN OTHER WORDS, THERE'S THIS NOTICE OF
12 INTENT WHERE THE APPLICANT SAYS, I'M GOING TO -- I'M
13 PLANNING ON PREPARING THIS FACILITY COMPLIANCE PLAN,
14 THEY HAVEN'T DONE IT YET, BUT I'M PLANNING ON DOING
15 IT.

16 AND THEN THERE'S THE DRAFT STAGE --

17 MEMBER JONES: THAT'S 60 DAYS.

18 MS. HAMBLETON: IT'S 60 DAYS --

19 MEMBER JONES: PRIOR TO GETTING A --

20 MS. HAMBLETON: THE FINAL.

21 MEMBER JONES: OKAY. SO NOW WE'RE AT 105 DAYS.
22 I JUST WANT TO PUT --

23 MS. HAMBLETON: RIGHT.

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1 MEMBER JONES: -- THAT LITTLE PORTION OF THE 13
2 YEARS. OKAY.

3 MS. HAMBLETON: OKAY. BUT ALSO BE AWARE THAT
4 THE CEQA COMPLIANCE HAS ALREADY OCCURRED, WHICH
5 PROBABLY WAS SEVEN OR EIGHT YEARS OF THAT 13,
6 POSSIBLY, I DON'T KNOW.

7 MEMBER JONES: BUT HOW DOES IT OCCUR WITHOUT A
8 PROJECT DESCRIPTION? AND WITHOUT A PLAN?

9 MS. HAMBLETON: WELL, THEY HAVE THEIR OWN -- I
10 MEAN, CEQA'S SORT OF SEPARATE FROM THIS. WHAT I'M
11 ENVISIONING -- WHAT HAPPENS IS THAT THE RSI USUALLY
12 COMES OUT OF THE CEQA DESCRIPTION, SO THE CEQA COMES
13 FIRST.

14 MEMBER JONES: THAT IS PART OF IT. I MEAN, IT'S
15 PART OF IT.

16 MS. HAMBLETON: RIGHT.

17 MEMBER JONES: AND THEN IT GETS TWEAKED.

18 TODAY WE LOOKED AT B&J DROP BOX. OKAY?
19 AND WHAT WE APPROVED WAS THE APPLICATION FOR THE
20 FACILITY BASED ON TWO PAGES OF CONDITIONS. THE
21 CONDITIONS WERE PUT ON BY THE LEA.

22 MS. HAMBLETON: RIGHT.

23 MEMBER JONES: WE CONCURRED WITH THEIR

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1 CONDITIONS.

2 WHAT I'M READING AS 1299 IS THAT THE LEA OR
3 THE WASTE BOARD COULD PUT ON CONDITIONS, BUT IT IS
4 REALLY THE OPERATOR'S JOB, OR THE PROPONENT'S JOB TO
5 INCLUDE THOSE ISSUES IN A COMPLIANCE PLAN.

6 MS. HAMBLETON: THAT'S CORRECT.

7 MEMBER JONES: AND I'M JUST -- THAT'S
8 CONTRADICTORY TO OUR STATUTES, FIRST OFF, FOR US.
9 BECAUSE WE ARE NOT ALLOWED TO ADD CONDITIONS.

10 SO, IN THAT CASE, WHICH STATUTE DO WE
11 DECIDE TO PICK FOR THAT ONE? OUR EXISTING ONE OR THIS
12 ONE?

13 MS. HAMBLETON: WELL, WE GO BACK TO THE TEST.

14 MEMBER JONES: THERE YOU HAVE THE TEST, THIS
15 WORKS FOR ME, THIS DON'T WORK FOR YOU.

16 BUT, YOU KNOW WHAT I'M SAYING? IT IS --
17 THE WAY I READ THIS THING, WE DON'T HAVE THE RIGHT TO
18 PUT CONDITIONS ON UNDER OUR STATUTES. BUT, WHEN I
19 READ 1299, WE ACTUALLY HAVE THE OBLIGATION TO PUT
20 CONDITIONS ON.

21 MS. HAMBLETON: WELL, 1299 ACTUALLY SAYS THE
22 PERMITTING AUTHORITY. AND I KNOW WHEN THIS WAS
23 WRITTEN I DON'T THINK IT ENVISIONED THE RELATIONSHIP

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1 THAT WE HAVE WITH THE LEAS. BECAUSE, WE DO HAVE A
2 DIFFERENT RELATIONSHIP THAN ALL THE OTHER BOARDS AND
3 DEPARTMENTS, BASICALLY.

4 BUT, IT SAYS THE PERMITTING AUTHORITY CAN
5 PUT CONDITIONS ON. AND WE ARE LISTED AS A PERMITTING
6 AUTHORITY, AS WELL AS THE LEA.

7 MS. TOBIAS: AND I WANT TO SAY THAT I'M NOT SURE
8 THAT THE LEGAL OFFICE IS GOING TO BASICALLY COME OUT
9 WITH AN INTERPRETATION THAT SAYS THAT UNDER THIS
10 PARTICULAR PROCESS WE'RE THE PERMITTING AUTHORITY AND
11 THAT YOU CAN PUT ON PERMIT CONDITIONS, AND IN OUR
12 NORMAL ONE YOU CAN'T. SO, I THINK THIS IS SOMETHING
13 THAT, AS FAR AS THE LEGAL OFFICE IS CONCERNED, IT'S UP
14 IN THE AIR ON THAT CONDITIONS ISSUE.

15 MEMBER EATON: WELL, I THINK PERHAPS ALSO WE
16 KIND OF GO BACK TO WHAT THE ORIGINAL INTENT WAS OF SB
17 1299, AND THAT'S REALLY A STREAMLINE APPROACH. AND I
18 THINK THAT SENATOR PEACE, DURING THAT TIME, WAS
19 COMPLETELY INSIGHTFUL AND VISIONARY IN THE FACT OF
20 TRYING TO MAKE THIS STREAMLINED.

21 I THINK HOW WE LOOK AT HOW WE FIT THIS INTO
22 OUR SCHEME IS THAT THE REGISTRATION PERMIT, AND ONLY
23 THE REGISTRATION PERMIT AT THIS TIME, SEEMS TO FIT

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1 WITHIN THAT TIME FRAME. AFTER ALL, IF IT'S
2 EXPEDIENCY, STREAMLINING AND NOT HAVING SOME OF THESE
3 TECHNICAL QUESTIONS GO UP....

4 AND, I MUST REMIND YOU, IT IS A PILOT
5 PROGRAM. SO IT'S NOT LIKE THAT WHAT WE HAVE -- SO, I
6 THINK AS YOU -- SORT OF AS WE ENTER THE COLD WATER, OR
7 THE HOT WATER, OR THE WARM WATER, THAT MAYBE WE DO IT
8 ONE TOE AT A TIME, AND MAYBE JUST AT THE PRESENT TIME
9 JUST GO REGISTRATION AND SEE HOW THAT GOES, AND WE TRY
10 AND WORK ON SOME OF THESE OTHER PROBLEMS.

11 MEMBER JONES: I DON'T HAVE ANY PROBLEM WITH
12 THAT. I DON'T WANT TO SEEM -- YOU KNOW, I AGREE WITH
13 YOU. THIS WAS AN INDUSTRIAL DEVELOPMENT BILL. IT WAS
14 TO HELP MOVE, INDUSTRIAL DEVELOPMENT, I DON'T THINK IT
15 WAS TO CONSOLIDATE OUR PERMITTING AUTHORITY.

16 I TAKE A LITTLE BIT OF -- I KIND OF WONDER
17 WHERE -- SOME OF THE THINGS THAT YOU WANTED DECISIONS
18 ON, ONE OF THEM WAS SHOULD THE BOARD CONCUR WITH THE
19 FACILITY COMPLIANCE PLAN OR SHOULD WE DELEGATE IT TO
20 THE EXECUTIVE DIRECTOR. SEEMS TO ME THAT UNDER
21 STATUTE THE ONLY PERSON THAT CAN -- THE ONLY GROUP OR
22 ENTITY HERE THAT CONCUR WITH THE PERMIT, IF IT'S A
23 FULL PERMIT OR SOMETHING LIKE THAT IS THE BOARD.

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1 RIGHT?

2 MS. HAMBLETON: I'M LOOKING OVER THERE.

3 MS. TOBIAS: I THINK GENERALLY THAT'S THE CASE.

4 I THINK THAT THE WAY WE HAD INTERPRETED STANDARDIZED
5 PERMITS, FOR EXAMPLE, WITH RECOMMENDING THAT THOSE
6 COULD BE ISSUED, IS THAT THE MORE MINISTERIAL A PERMIT
7 BECOMES THE MORE YOU HAVE THE POSSIBILITY AS A
8 LEGISLATIVE BODY TO DELEGATE THAT TO AN ADMINISTRATOR.

9
10 BECAUSE, IF YOU SET OUT THE GUIDELINES AND
11 CONSTRAIN THAT ADMINISTRATOR'S ABILITY, THEN THERE ARE
12 SOME THINGS YOU CAN DELEGATE. SO A STANDARDIZED
13 PERMIT, BY VIRTUE OF ITS NAME, YOU KNOW, WE BROUGHT TO
14 YOU THE POSSIBILITY BEFORE OF DELEGATING THAT TO THE
15 EXECUTIVE DIRECTOR. BECAUSE, IT FITS INTO THAT
16 PARAMETER.

17 I DON'T SEE ANY ABILITY TO DELEGATE A FULL
18 PERMIT CONCURRENCE TO THE EXECUTIVE DIRECTOR. I DON'T
19 THINK THAT'S A POSSIBILITY. BUT, I DO THINK, AS YOU
20 GET SOMETHING INTO THE FACT THAT'S MORE STANDARDIZED,
21 OR A SET, OR MORE OF A MINISTERIAL PERMIT, THEN THAT'S
22 MORE OF A POSSIBILITY.

23 MS. JONES: BECAUSE IT GOES TO THE HEART OF

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1 1299, 1299 SAYS THAT WE HAVE A RIGHT -- WHERE PERMITS
2 ARE DISCRETIONARY, THEN THE BOARDS WILL DO THEIR DUE
3 DILIGENCE, DO THEIR JOB, AND EITHER VOTE IT UP OR
4 DOWN.

5 SO, IF IT IS -- IF WE'RE LOOKING AT IT THAT
6 WAY, THAT IN FACT THERE IS -- THAT IT IS
7 DISCRETIONARY, THEN I DON'T THINK YOU TURN -- I DON'T
8 THINK -- I UNDERSTAND WHAT YOU'RE SAYING. I DON'T
9 THINK YOU CAN TURN THAT DISCRETIONARY ACTION OVER
10 BECAUSE IT'S NOT MINISTERIAL -- DO YOU KNOW WHAT I
11 MEAN? -- AT THAT POINT. AND, BECAUSE I DON'T HAVE
12 ANY PROBLEM WITH TURNING OVER THE REGISTRATION TIER
13 AND THEN WORKING THROUGH THIS THING.

14 I DO HAVE A -- I DO AGREE WITH THE
15 DISCUSSION ON CASE-BY-CASE, BECAUSE I THINK YOU NEED
16 TO SEE IT IMMEDIATELY WHEN IT'S PROPOSED TO DETERMINE
17 WHO THE AGENCIES ARE INVOLVED IN THIS THING, AND WHAT
18 IS IT GOING TO LOOK LIKE.

19 AND THE OTHER THING IS THAT IF THE ZONE
20 ADMINISTRATOR IN -- I THINK WAS KERN, THERE'S FOUR OF
21 THEM LISTED, I THINK ONE OF THEM WAS KERN COUNTY,
22 CALLS A MEETING TO GET THE PARTIES TOGETHER, I'M
23 ASSUMING THAT THAT MEANS YOU GUYS HAVE TO GO DOWN

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1 THERE?

2 WELL, I MEAN, IT WOULD SEEM TO ME THAT THAT
3 WOULD HAVE SOME IMPLICATIONS ON THE WAY WE DO
4 BUSINESS. BECAUSE, A LOT OF THAT STUFF BETWEEN THE
5 LEA AND THE OPERATOR IS DONE BY THE PHONE. AND IF THE
6 ZONE ADMINISTRATOR DECIDES HE WANTS TO HAVE THESE IN-
7 PERSON MEETINGS EVERY WEEK, THEN THAT MEANS PEOPLE
8 FROM THE STAFF ARE GOING TO HAVE TO GO DOWN THERE
9 EVERY WEEK TO PARTAKE IN THAT.

10 AND MAYBE THAT'S OKAY. BUT I'M JUST -- I
11 JUST THINK WE NEED TO BE AWARE THAT IT IS A CHANGE IN
12 THE WAY THAT WE WOULD NORMALLY DEAL WITH THESE THINGS.
13 AND THAT WOULD JUST -- YOU KNOW, HOW MUCH AT THEIR
14 BECK AND CALL ARE YOU? I MEAN, JUST -- YOU JUST MIGHT
15 WANT TO THINK ABOUT IT.

16 MS. TOBIAS: WELL, I THINK ALONG WITH THAT THE
17 BOARD MAY WANT TO -- EITHER NOW OR AT SOME POINT IN
18 THE FUTURE -- COME UP WITH SOME KIND OF GUIDELINES AS
19 TO WHAT KINDS OF PERMITS THEY'D EITHER LIKE TO NEVER
20 SEE SENT THROUGH THE PROCESS, OR MOSTLY SENT THROUGH
21 THE PROCESS.

22 FOR INSTANCE, I HEARD MR. FRAZEE BRING UP A
23 CONCERN -- AND I'M NOT SURE IT'S ENOUGH TO WARRANT

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1 THIS BUT -- AT THE COMMITTEE MEETING, IF WE ARE THE
2 ONLY STATE AGENCY INVOLVED AND ALL THE REST OF THEM
3 ARE LOCAL AGENCIES, PERHAPS THOSE ARE ONES THAT WE
4 REALLY WOULDN'T SEE PUTTING THROUGH THIS PROCESS. SO
5 THERE'S ONE GUIDELINE ALREADY.

6 MEMBER JONES: THAT'S HOW I INTERPRETED IT.

7 MS. TOBIAS: PERHAPS ANOTHER ONE IS, IS THAT AT
8 THIS TIME WE DON'T SEE ANY FULL SOLID WASTE FACILITY
9 PERMITS FOR NEW LANDFILLS GOING THROUGH THIS PROCESS.

10 SO, I DO THINK THERE ARE MAYBE SOME LINES
11 THAT WE COULD DRAW, OR SOME GUIDELINES THAT WE COULD
12 COME UP WITH THAT MIGHT HELP APPLICANTS OR OPERATORS
13 WHO ARE COMING THROUGH THE PROCESS TO KIND OF SAY,
14 WELL, YOU KNOW, THIS LOOKS LIKE A GOOD ONE MAYBE FOR
15 THE BOARD TO TRY, LET'S GO IN AND LET'S ASK THEM IF
16 THIS IS ONE THAT THEY COULD PUT THROUGH THIS PROCESS.

17 OR, THEY SHOULD KNOW AHEAD OF TIME THAT, NO WAY, AND
18 NOT WASTE THEIR TIME.

19 CHAIRMAN PENNINGTON: OKAY. WE HAVE SOME
20 COMMENTS FROM THE AUDIENCE. MR. EVAN EDGAR, PLEASE?

21 MR. EDGAR: THANK YOU CHAIRMAN, AND BOARD
22 MEMBERS. MY NAME IS EVAN EDGAR OF EDGAR ASSOCIATES.

23 WHEN SB 1299 PASSED I WAS PRETTY EXCITED,

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1 BECAUSE THEY'D JUST PASSED AB 1220 FOR LANDFILLS AND
2 IT WAS WORKING. WE GOT A LOT OF BENEFIT OUT OF IT.

3 WHEN I FIRST LOOKED AT SB 1299 I LOOKED AT
4 IT FOR DIVERSION FACILITIES, AND ESPECIALLY FOR NEW
5 FACILITIES FOR CALIFORNIA. I THINK THE INTENT IS
6 ALWAYS FOR LESSER NEW FACILITIES, NOT FOR LANDFILLS,
7 AND THAT IT WAS SUPPOSED TO BE SOME TYPE OF PERMIT
8 STREAMLINING. IT HAD REALLY GOOD INTENTIONS AND IT
9 WAS SUPPOSED TO BE A VOLUNTARY PROGRAM.

10 I LIKED IT SO MUCH THAT I WENT TO ALL THE
11 WORKING GROUP MEETINGS IN 1996 AND 1997 WITH MS.
12 KENNEY AND MR. KEN SELLOVER, ABOUT HOW TO IMPLEMENT
13 THIS PLAN.

14 AND, IN FACT, IN 1996 I WROTE A FACILITY
15 COMPLIANCE PLAN FOR A 10,000-CUBIC YARD FACILITY, A
16 REGISTRATION PERMIT. I COMBINED AIR, WASTE AND WATER
17 IN ONE STAND-ALONE DOCUMENT, AND GOT IT DONE IN THREE
18 MONTHS.

19 SO, I THINK THE INTENT WAS FOR DIVERSION
20 FACILITIES THAT ARE NEW, AND IT HAS SOME BENEFIT. SO,
21 1299 CAN WORK, AND UNDER A TRIAL BASIS, FOR THE
22 REGISTRATION PERMIT ALONE.

23 I DON'T EVER SEEING IT WORK FOR ANY

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1 STANDARDIZED OR ANY FULL PERMIT THAT WOULD BE A
2 DISCRETIONARY ACTION THAT WOULD BE BY THIS WASTE
3 BOARD. I THINK IF IT'S GOING TO BE DELEGATED ON A
4 MINISTERIAL LEVEL TO THE LEA, THAT IT CAN BE PARLAYED
5 INTO A 1299 PROGRAM. I THINK IT CAN WORK.

6 I GUESS ALL CAL EPA IS SAYING IS GIVE PEACE
7 A CHANCE. THANK YOU.

8 CHAIRMAN PENNINGTON: BRUCE, DID YOU WANT TO SAY
9 ANYTHING? OKAY.

10 OKAY. IS THERE MORE DISCUSSION HERE? IF
11 NOT --

12 MS. HAMBLETON: I ACTUALLY WANTED TO HAVE -
13 - I WANTED TO MAKE ONE MORE COMMENT.

14 I DON'T ENVISION THAT THERE WILL BE THAT
15 MANY PROJECTS COMING THROUGH WITH THIS PROJECT FOR
16 SOLID WASTE. SO IN A WAY I'M -- ALTHOUGH WE DON'T
17 HAVE A STAFF RECOMMENDATION, I WANTED TO ENCOURAGE YOU
18 TO -- BECAUSE IT'S A PILOT PROJECT, MAYBE JUST TRY THE
19 THINGS THAT -- SEE WHAT COMES THROUGH ON A CASE-BY-
20 CASE BASIS, SEE WHAT IT IS, AND THEN DETERMINE THEN,
21 INSTEAD OF SHUTTING THE DOOR BEFORE WE EVEN HAVE AN
22 OPPORTUNITY TO SEE WHAT KIND OF PROJECTS MIGHT COME
23 THROUGH, IF ANY.

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1 MEMBER EATON: I DON'T THINK YOU HAVE TO SHUT
2 THE DOOR. I THINK WHAT YOU CAN DO IS MAKE SURE THAT
3 THERE'S A WELCOME MAT OUT SO THAT YOU CAN GET THROUGH
4 THE DOOR.

5 AND I THINK SOME OF THE QUESTIONS THAT COME
6 THERE, FROM WHAT I HEARD TODAY, AFTER YOU GET BY SOME
7 OF YOUR DECISIONS WHICH PERMITS ARE ELIGIBLE, YOU
8 NEVER GET TO THE OTHER QUESTIONS IF YOU DEAL WITH JUST
9 THE REGISTRATION TIER AS A PILOT PROJECT. I THINK
10 THAT'S WHERE WE WANT TO BE.

11 THE MOU AND ANY OF THE OTHER THINGS CAN BE
12 AMENDED AS THEY COME ALONG, AND DIALOGUE, AND WE GET
13 SOME OF THESE THINGS WORKED OUT. I THINK THAT'S
14 PERFECTLY WITHIN THE FRAMEWORK BY WHICH THE AUTHOR AND
15 THOSE WHO WERE INITIALLY IN ON IT SOUGHT TO GO IN
16 STREAMLINING AND THEN YOU'RE 45 DAYS AND OUT.

17 I THINK THAT'S WHERE WE SHOULD GO TODAY,
18 AND I WOULD ACTUALLY FRAME A MOTION SUCH THAT WOULD
19 SAY THAT FOR PURPOSES OF THIS ITEM THAT WE OFFER UP
20 INTO THE MOU THE REGISTRATION PERMIT ONLY.

21 CHAIRMAN PENNINGTON: OKAY.

22 MS. TOBIAS: MR. PENNINGTON, ONE OF THE
23 DECISIONS THAT I DO THINK WE NEED TODAY IS WHETHER YOU

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1 ARE GOING TO HAVE THE EXECUTIVE DIRECTOR SIGN THE MOU
2 OR NOT. THAT IS SOME DIRECTION THAT WE DO NEED TODAY.

3 CHAIRMAN PENNINGTON: CAN YOU PUT IT ALL ON ONE
4 MOTION? OR, DO YOU WANT US TO --

5 MS. TOBIAS: I DON'T HAVE A NEED FOR ONE SINGLE
6 MOTION.

7 I JUST WANTED TO POINT OUT -- I WASN'T SURE
8 EXACTLY WHERE WE WERE GOING, BUT I DID WANT TO SAY
9 THAT WAS ONE THING WE NEEDED TO ADDRESS.

10 CHAIRMAN PENNINGTON: STATE YOUR MOTION AGAIN.

11 MEMBER EATON: THAT I WOULD MOVE THAT, FOR
12 PURPOSES OF AGENDA ITEM 10, THE MOU, THAT WE WOULD
13 ENTER INTO -- INCLUDE THE REGISTRATION PERMIT ONLY.
14 AND THAT -- I THINK THAT'S IT.

15 CHAIRMAN PENNINGTON: MS. KENNEY WANTS TO SPEAK
16 TO THIS. DO YOU WANT TO HAVE HER SPEAK WHILE YOU'RE
17 WORKING ON THAT?

18 GO AHEAD.

19 MS. KENNEY: MY NAME'S CHRIS KENNEY FROM CAL
20 EPA. AND I JUST WANTED TO KIND OF REEMPHASIZE AGAIN
21 SOME OF THE THINGS THAT SUZANNE SAID AND STAFF HAD
22 SAID.

23 THAT IT IS A PILOT PROJECT, AND WE DO HAVE

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1 REPORTS TO MAKE BACK TO THE LEGISLATURE ON THE
2 PROGRESS OF THE LEGISLATION. SO WE WOULD LOOK TO
3 ASKING THE BOARD TO KEEP AN OPEN MIND ON WHAT WE CALL
4 THIS CASE-BY-CASE.

5 I EXPECT VERY, VERY FEW, IF ANY, PROJECTS
6 THAT WOULD INVOLVE INTEGRATED WASTE BOARD. BUT I'D
7 LIKE YOU TO CONSIDER THAT, IN FACT, IF WE DID GET ONE
8 FOR A TRANSFER STATION OR SOMETHING LIKE THAT, YOU
9 WOULD LOOK AT IT FROM DAY ONE, EARLY ON IN THE
10 PROCESS, AND SIT DOWN AND SAY CAN THIS WORK. AND NOT
11 TO SHUT THE DOOR.

12 IF YOU ONLY PUT IT ON REGISTRATIONS THEY
13 FEEL LIKE YOU'RE SHUTTING THE DOORS ON POSSIBILITIES.
14 WE'RE SEEING IF 1299 NEEDS TO WORK -- CAN WORK, OR IF
15 IT NEEDS SOME AMENDMENTS TO IT OR WHATEVER. SO I
16 WOULD ENCOURAGE YOU TO LEAVE THE DOOR OPEN.

17 MEMBER EATON: OH, I BELIEVE THE DOOR IS OPEN.
18 I JUST THINK FOR TODAY WHAT WE'RE LOOKING AT IS, WE
19 JUST -- IN KEEPING WITH THE AUTHOR'S LEGISLATIVE
20 INTENT, AS WELL AS OTHER KINDS OF THINGS, THE
21 REGISTRATION PERMIT IS THE FIRST ONE TO OFFERED UP.
22 AND IF THERE ARE OTHER OCCASIONS, THAT WE WOULD BE
23 WILLING TO CONSIDER THOSE.

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1 MS. KENNEY: TO CONSIDER, NOT TO EXCLUDE THEM.
2 BECAUSE PART OF THE AGREEMENT, WHEN YOU SIGN IT, YOU
3 HAVE A LIST, AN ATTACHMENT --

4 MEMBER EATON: CORRECT.

5 MS. KENNEY: -- THAT THESE ARE THE PERMITS.

6 MEMBER EATON: CORRECT. BUT THAT WOULDN'T BE
7 PART OF THE AGREEMENT.

8 MS. KENNEY: IT IS PART OF THE AGREEMENT.

9 MEMBER EATON: WELL, NOT PART OF --

10 MS. KENNEY: IT'S NOT PART OF MY MOTION. MY
11 MOTION IS THAT THE REGISTRATION PERMIT IS WHAT WE
12 WOULD MAKE IT PART OF THE AGREEMENT.

13 CHAIRMAN PENNINGTON: BUT WE WOULD LOOK AT THE
14 OTHERS ON A CASE-BY-CASE BASIS AND SEE IF THEY FIT,
15 AND WE COULD SEND THEM THROUGH. IS THAT --

16 MEMBER EATON: NO. NO, IT WOULD BE JUST
17 REGISTRATION ONLY. BECAUSE THEN WE HAVE TO GET TO THE
18 OTHER DECISIONS THAT TAKE PLACE. THE REGISTRATION
19 ONLY FITS NICELY INTO THIS.

20 IF THERE IS A NEED, THEN WE COULD EITHER
21 ENTER INTO A SUBSEQUENT MOU WITH REGARD, OR ADD AN
22 ADDENDUM OR AN AMENDMENT AT SOME FUTURE TIME, IF THERE
23 WOULD BE THE CASE.

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1 I THINK WE'RE DEALING IN HYPOTHETICALS.
2 THERE MAY NOT EVER COME A CASE WHERE ANY OF THESE
3 EITHER STANDARDIZED OR FULL PERMITS COME BEFORE IN
4 THIS PROCESS. SO, WHY EVEN GO THERE?

5 I THINK THAT WHAT WE WERE LOOKING FOR IS TO
6 ENCOURAGE PEOPLE TO GET INVOLVED IN THIS 1299 PROCESS.
7 THE EASIEST WAY TO DO THAT IS TO MAKE IT EFFICIENT,
8 AND THE WAY TO DO IT WITH EFFICIENT IS WITH THE
9 EASIEST PERMIT BY WHICH THOSE TIME FRAMES CAN BE
10 ACCOMMODATED WITHOUT TRYING TO THROW UP ROADBLOCKS.
11 THAT'S WHAT THE WHOLE STREAMLINING'S ABOUT. AND
12 REGISTRATION PERMITS FITS NICELY INTO THAT PARTICULAR
13 FRAMEWORK.

14 CHAIRMAN PENNINGTON: SO, YOUR MOTION IS TO --

15 MEMBER EATON: WOULD BE TO ENTER INTO THE MOU
16 WITH CAL EPA, AND WITH RESPECT TO THE REGISTRATION
17 PERMIT ONLY. AND THAT WE WOULD THEN BE AUTHORIZING
18 THE EXECUTIVE DIRECTOR TO SIGN THAT MOU ON BEHALF OF
19 THE BOARD. WITH THE MODIFICATIONS NECESSARY IN THE
20 SHEET THAT WAS HANDED OUT, WHICH WAS CALLED -- IF WE
21 MIGHT MAKE IT ATTACHMENT 1?

22 MS. HAMBLETON: SURE. IF I JUST MIGHT MAKE ONE
23 CORRECTION ON THAT? THE MOU IS WITH THE ZONE

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1 APPLICANTS RATHER THAN WITH CAL EPA.

2 MEMBER JONES: YOU DON'T HAVE TO SIGN ONE WITH
3 CAL EPA?

4 MS. KENNEY: NO.

5 MEMBER EATON: OKAY. WELL, WAIT THEN. NOW I'M
6 -- SO, ARE YOU SAYING THAT THIS PROPOSED MOU IS --
7 WOULD HAVE BEEN BETWEEN US, KERN COUNTY, BAKERSFIELD,
8 AND THOSE PEOPLE?

9 MEMBER JONES: WE HAVE --

10 MS. KENNEY: THERE WOULD BE --

11 MEMBER JONES: AND WE WOULD HAVE PREDETERMINED -
12 -

13 MS. KENNEY: PERMITTING AUTHORITIES AND THE ZONE
14 APPLICANTS. CAL EPA HAS NO PERMITTING AUTHORITY.

15 MEMBER JONES: NO?

16 MS. KENNEY: YEAH.

17 CHAIRMAN PENNINGTON: WE ACTUALLY HAVE FOUR OF
18 THESE --

19 MS. HAMBLETON: CORRECT.

20 CHAIRMAN PENNINGTON: -- OR FIVE, OR WHATEVER.

21 MS. HAMBLETON: FOUR. AT THIS POINT IN TIME
22 THERE ARE FOUR.

23 CHAIRMAN PENNINGTON: OKAY.

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1 MEMBER JONES: BUT WHAT ABOUT OUR AB 59 STUFF?
2 IS THAT INCLUDED IN THIS SOME WAY?

3 MS. TOBIAS: THE APPEAL PROCESS TIME?

4 MEMBER JONES: YEAH. THAT'S --

5 MS. TOBIAS: YEAH, THAT'S THE -- THOSE ARE THE
6 AMENDMENTS THAT WE ARE ASKING MEMBER EATON TO PUT IN
7 THERE. SO IT BASICALLY SAYS THAT OUR PARTICIPATION'S
8 BASICALLY BASED -- PREDICATED ON THE AGREEMENT OF ALL
9 THE PARTIES TO ACKNOWLEDGE THAT OUR APPEALS TIME IS
10 LONGER THAN WHAT'S GENERALLY IN THIS.

11 MEMBER JONES: ONE OTHER THING THAT I READ IN
12 THE MOU WAS THAT -- OR, I THINK IT WAS IN THE MOU,
13 THAT THERE WAS A PARAGRAPH OR TWO THAT WE WOULD
14 CONTINUE TO WORK TOGETHER TO TRY -- THROUGH THIS PILOT
15 PROCESS TO TRY TO ENLARGE IT OR DO WHATEVER.

16 WAS THAT IN THIS ONE?

17 MS. TOBIAS: YES, IT IS. IT'S NUMBER SIX,
18 PARAGRAPH SIX ON 10-21. OR PAGE FIVE, WHATEVER YOU'RE
19 LOOKING AT.

20 MEMBER JONES: OKAY. I THINK THAT WHAT MEMBER
21 EATON IS SAYING, BY JUST DOING THE REGISTRATION TIER,
22 AND IF WE SIGN THESE MOUS, UNDER NUMBER SIX WE'RE
23 AGREEING THAT WE WILL CONTINUE TO WORK TO GROW THIS

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1 PROGRAM IF WE THINK WE SHOULD.

2 SO, I DON'T THINK IT'S NECESSARY -- I MEAN,
3 I KIND OF -- I THINK WITH THAT PARAGRAPH IN IT AREN'T
4 WE BOUND TO NEVER CLOSE THE DOOR?

5 MS. KENNEY: WELL, LET ME JUST MAKE -- ONE OTHER
6 STATEMENT THAT YOU MADE, MEMBER EATON. IT IS NOT
7 HYPOTHETICAL. THAT THERE WILL, IN FACT, BE A PROJECT
8 THAT WILL INVOLVE A INTEGRATED WASTE BOARD AUTHORITY
9 TO APPROVE -- OR, CONCUR, THAT WILL COME TO ONE OF THE
10 PARTS OF 1299. SO, IN THE NOT TOO DISTANT FUTURE WE
11 WILL BE BRINGING YOU AN ISSUE OF WILL YOU CONSIDER
12 THIS TYPE OF PERMIT TO BE PART OF 1299.

13 MEMBER JONES: SO THERE IS ONE ALREADY IN THE
14 PIPELINE, BUT JUST A COUPLE -- OKAY.

15 IS IT A LANDFILL?

16 MS. KENNEY: NO.

17 MS. HAMBLETON: WELL, THERE -- ACTUALLY --

18 MEMBER JONES: A RECYCLING FACILITY?

19 MS. HAMBLETON: KERN COUNTY IS SPEAKING ABOUT
20 TWO POSSIBLE PROJECTS. SO, ONE IS A LANDFILL AND ONE
21 IS A TRANSFER STATION.

22 MS. KENNEY: OH, IS IT A LANDFILL?

23 MS. HAMBLETON: I DON'T KNOW VERY MUCH ABOUT

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1 THEM. THEY'RE IN THE CONCEPTUAL STAGE. I DON'T KNOW
2 IF THEY'VE ALREADY COMPLETED CEQA. SO, IF THEY
3 HAVEN'T, THAT WOULD BE A LONG TIME BEFORE WE WOULD SEE
4 THESE PROJECTS.

5 BUT WHAT I'M HEARING IS THAT IF THEY WERE
6 TO FOLLOW THIS ROUTE, THAT I WOULD -- OR, WE WOULD --
7 STAFF WOULD COME BACK AND -- AND AT THAT TIME WOULD
8 COME BACK TO THE BOARD AND ASK IF YOU WOULD CONSIDER
9 THEM.

10 IS THAT WHAT I'M HEARING?

11 MEMBER EATON: WE WOULD SEEK TO AMEND THE MOU
12 WITH RESPECT TO THAT PARTICULAR PARTY.

13 MS. KENNEY: YEAH, THAT WOULD BE ONE WAY WE
14 COULD DO IT.

15 MS. HAMBLETON: OKAY.

16 MEMBER EATON: THAT'S WHAT IT WOULD BE, BECAUSE
17 IT'S THE MOU THAT GOVERNS. SO THAT WHAT WE WOULD BE
18 ABLE TO DO AT THAT POINT IS TO DRAFT THE MOU IN SUCH A
19 FASHION THAT MEETS NOT ONLY THE REQUIREMENTS OF 1299,
20 BUT ANY OF THESE OTHER ITEMS THAT HAVE COME UP TODAY.

21 AND THAT'S ALL WE'RE LOOKING TO. IT'S LIKE
22 AN INDIVIDUAL CONTRACT. THAT IF -- YOU KNOW, IT MAY
23 VERY WELL WORK, AND WE WOULD BE ABLE TO DRAFT THINGS

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1 WITH THEM. SO IT'S ACTUALLY EITHER CREATING A -- I
2 GUESS YOU WOULD SAY AN ADDENDUM AND/OR A WHOLLY NEW
3 CONTRACT BASED UPON THE ITEM BEFORE US.

4 SO, THAT'S WHAT I MEANT BY KEEPING THE DOOR
5 OPEN. AND THAT'S PROBABLY A BETTER WAY TO PROCEED.

6 MS. HAMBLETON: THANK YOU FOR THAT
7 CLARIFICATION.

8 MEMBER JONES: SECOND MEMBER EATON'S MOTION.

9 CHAIRMAN PENNINGTON: OKAY.

10 MEMBER FRAZEE: I WAS JUST GOING TO SUGGEST THAT
11 THERE MAY BE SOME VALUE FROM A PUBLIC RELATIONS, GOOD
12 FAITH STANDPOINT IN INCLUDING THAT POSSIBILITY, AS THE
13 RESOLUTION IS WRITTEN, ON A CASE-BY-CASE BASIS OF
14 TAKING FULL AND STANDARDIZED PERMITS. I THINK IF YOU
15 DON'T INCLUDE THOSE, THEN YOU CLOSE THE DOOR TO AN
16 APPLICANT TO EVEN CONSIDER IT ON A CASE-BY-CASE BASIS.

17 AND I WAS ONE WHO SAID, INITIALLY,
18 REGISTRATION PERMITS ONLY. BUT I -- THERE'S SOMETHING
19 TO BE SAID FOR SHOWING GOOD FAITH IN THIS DECISION.
20 YOU CAN ALWAYS SAY NO ON A
21 CASE-BY-CASE BASIS, SO.

22 MS. TOBIAS: I THINK THERE'S SOMETHING TO THAT,
23 OF INSTEAD OF PUTTING IT IN A MOU, TO PUTTING IT IN

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1 THE RESOLUTION AS THE INTENT OF THE BOARD. JUST AS
2 THE DISCUSSION REFLECTED, THAT IT WOULD BE SOMETHING
3 THAT THE BOARD WOULD BE WILLING TO TAKE UP.

4 I THOUGHT MEMBER EATON'S IDEA OF BASICALLY
5 DEALING THROUGH THE MOU WAS A GOOD ONE. I THINK THE
6 UPSIDE OF IT IS THAT WE HAVE AN MOU NOW THAT'S
7 STANDARDIZED, THAT WOULD BE OUT THERE WITH EVERYBODY.
8 SO IT REALLY SETS UP, I THINK, THE EXPECTATION THAT
9 WE WOULDN'T DEVIATING FROM IT TO A GREAT EXTENT.

10 ON THE OTHER HAND, IT ALSO SAYS THAT WE CAN
11 SOMEWHAT TAILOR THE SITUATION TO WHATEVER'S COMING IN,
12 BECAUSE I THINK THERE IS A BIG DIFFERENCE BETWEEN A
13 REGISTRATION TYPE FACILITY, A TRANSFER STATION, AND A
14 LANDFILL.

15 SO, I THINK SOMETHING IN THE RESOLUTION
16 THAT BASICALLY REFLECTED THAT IS A GOOD HALFWAY
17 MEASURE TO THAT. AND I THINK THAT'S BETTER THAN IN
18 THE MOU, PERSONALLY, THOUGH.

19 CHAIRMAN PENNINGTON: SO HOW DO WE DRAFT THAT?

20 MS. TOBIAS: WELL, I THINK WE COULD EITHER -- I
21 THINK WE UNDERSTAND THE INTENT OF WHAT MEMBER EATON'S
22 MOTION WAS, AND THE DISCUSSION THAT FOLLOWED THAT
23 WHERE HE BASICALLY ARTICULATED THE USE OF THE MOU FOR

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1 THAT. SO, I THINK WE COULD DRAFT UP A PARAGRAPH TO
2 THAT RESOLUTION THAT WOULD REFLECT THAT IF THE BOARD
3 FEELS COMFORTABLE WITH US DOING THAT.

4 MEMBER EATON: YES, I THINK THAT MR. FRAZEE IS
5 ABSOLUTELY CORRECT IN THAT, IN THAT WE JUST KEEP THOSE
6 TWO SEPARATE, BUT THEY ARE A PART OF THE OVERALL
7 PACKAGE.

8 MEMBER FRAZEE: BUT DOESN'T THE RESOLUTION SAY
9 THAT IN ITS ENTIRETY NOW? DOES IT NEED --

10 MS. HAMBLETON: CURRENTLY THE RESOLUTION
11 ACTUALLY STATES THAT -- THE WAY IT WAS DRAFTED, AND
12 THIS WAS JUST SORT OF GUESSWORK WHEN I DID DRAFT IT --
13 THAT THE STANDARDIZED AND THE FULL PERMIT WOULD BE
14 CONSIDERED ON A CASE-BY-CASE BASIS. BUT, THAT WOULD
15 BASICALLY HAVE TO BE -- SOUNDS LIKE IT WOULD HAVE TO
16 BE CHANGED TO WORD IT THE WAY MS. TOBIAS JUST SAID, A
17 LITTLE BIT. SO THAT CASE-BY-CASE ISN'T ACTUALLY
18 STATED.

19 MS. TOBIAS: WELL, ACTUALLY, IF YOU LOOK IN THE
20 "NOW, THEREFORE, BE IT RESOLVED" -- I'M ON PAGE 10-25
21 -- IT SAYS:

22 "THE STANDARDIZED AND FULL PERMIT TIER COULD
23 BE SUBSTITUTED BY A FACILITY COMPLIANCE PLAN ON A

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1 CASE-BY-CASE BASIS CONDITIONED ON THE APPROVAL OF
2 THE BOARD."

3 WE COULD EITHER MOVE THAT SENTENCE TO A
4 WHEREAS, WHICH IS INSTEAD OF THE RESOLUTION PARAGRAPH
5 THE RATIONALE PARAGRAPH, AND JUST ADD IN THAT THAT
6 WOULD BE -- WHEN IT SAYS "CONDITIONED BY THE APPROVAL
7 OF THE BOARD," CONDITIONED BY THE APPROVAL OF THE
8 BOARD BY AMENDING -- BY PROVIDING A NEW OR AMENDING
9 THE MOU TO --

10 MEMBER FRAZEE: WELL, YEAH. RIGHT --

11 MS. TOBIAS: -- PROVIDE FOR THAT --

12 MEMBER FRAZEE: -- THAT WOULD ACCOMPLISH IT.
13 SURE.

14 MS. TOBIAS: SO, THAT'S WHAT I WOULD SUGGEST, IS
15 BASICALLY MOVING THAT SENTENCE TO A WHEREAS PARAGRAPH,
16 PUT IN A PROVISION OF THE MOU IN THERE, AND THEN GOING
17 FROM THERE.

18 MEMBER FRAZEE: YEAH, BECAUSE I THINK WE OUGHT
19 TO LEAVE THAT DOOR OPEN A LITTLE BIT.

20 CHAIRMAN PENNINGTON: RIGHT.

21 MEMBER FRAZEE: AND YOU CAN ALWAYS SAY NO.

22 MEMBER JONES: AND WHEN WE SAY CASE-BY-CASE
23 BASIS, DO WE WANT TO FURTHER REITERATE THAT THAT'S

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1 GOING TO BE AT THE BEGINNING OF THE PROCESS? OR, IS
2 THERE A NEED --

3 MS. TOBIAS: SURE.

4 MEMBER JONES: -- TO DO THAT? I THINK THERE IS
5 --

6 MS. TOBIAS: I THINK IT WOULD BE GOOD TO SAY
7 THAT. I THINK THAT'S CERTAINLY OUR INTENT. I REALLY
8 WOULD FEEL LIKE THAT WOULD NOT BE GOOD FOR ANY
9 OPERATOR/APPLICANT TO GET ALL THE WAY THROUGH THE
10 PROCESS AND FIND OUT WE DIDN'T WANT TO DO IT THAT WAY.
11

12 SO, WE'LL PUT SOMETHING IN THERE THAT
13 BASICALLY SAYS, YOU KNOW, PRIOR TO STARTING THIS
14 PROCESS UNDER --

15 CHAIRMAN PENNINGTON: WE WOULD HAVE TO DO THAT,
16 THOUGH, WOULDN'T WE?

17 MS. TOBIAS: -- SB 1299, ET CETERA. BUT I
18 REALLY THINK THAT'S HOW IT'S SUPPOSED TO WORK --

19 CHAIRMAN PENNINGTON: WELL, IF YOU SAY
20 SUBSTITUTE -- YOU HAVE TO MAKE THAT DECISION UP FRONT.
21 RIGHT? STANDARDIZE THE FULL PERMIT COULD BE
22 SUBSTITUTED BY A FACILITY COMPLIANCE ON A CASE-BY-
23 CASE, THAT WOULD BE YOU'VE GOT TO DO IT UP FRONT.

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1 MEMBER JONES: YOU AND I WOULD.

2 CHAIRMAN PENNINGTON: THE BOARD WOULD AMEND THE
3 MOU.

4 MEMBER JONE: I'M SAYING THE BOARD WOULD, BUT I'M
5 NOT SO SURE THAT -- YOU KNOW, I WANT -- I'M JUST
6 TRYING TO MAKE SURE THAT ALL THE PEOPLE IN THE
7 HINTERLANDS (PHONETIC) KNOW TO COME IN EARLY.

8 MS. TOBIAS: MR. PENNINGTON, MAY I ALSO ADD MS.
9 BOARSLER (PHONETIC) IS RAISING THE ISSUE THAT WE'VE
10 ASKED TO HAVE THIS LANGUAGE ON THE AB 59 PROCESS
11 AMENDED INTO THE MOU.

12 IF IT'S NOT AMENDED INTO THE MOU, OR IF
13 THAT'S A PROGRAM, IF THE BOARD WOULD AGREE TO THIS IT
14 MIGHT BE GOOD IF WE PUT THE WHEREAS PARAGRAPH IN HERE
15 THAT BASICALLY SAYS THAT THIS IS ALSO SUBJECT TO
16 AGREEING THAT OUR APPEAL PROCESS IS OBSERVED. AND
17 THAT WAY IT'S IN OUR INTENT, WHICH MAYBE IF THIS
18 DOESN'T GET APPROVED THEN WE -- THE BOARD'S INTENT IS
19 STILL CLEAR ON THAT.

20 WOULD THAT BE --

21 MEMBER JONES: IT WORKS FOR ME.

22 MS. TOBIAS: OKAY. GREAT. THANK YOU.

23 MEMBER JONES: YEAH, THAT'S FINE.

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1 MR. CHANDLER: SO, AS I UNDERSTAND IT, WHILE
2 WE'RE MAKING REFERENCE IN THE RESOLUTION TO A PROCESS
3 IN WHICH THE LOCAL JURISDICTIONS CAN COME FORWARD AND
4 REQUEST CONSIDERATION FROM THE BOARD ON STANDARDIZED
5 OF FULL, THE MOU THAT YOU'RE ASKING THAT I SIGN SIMPLY
6 ADHERE TO THE REGISTRATION TIER AT THIS TIME.

7 MR. PENNINGTON: CORRECT. YEAH.

8 MR. CHANDLER: THAT'S CORRECT? THAT'S THE
9 TEMPLATE THAT WOULD GO FORWARD? OKAY. I JUST WANTED
10 TO BE CLEAR ON THAT.

11 MEMBER JONES: CAN WE INCLUDE A COPY OF OUR
12 RESOLUTION WITH THE MOU? JUST SO THAT THEY SEE WHERE
13 WE'RE -- YOU KNOW, SO THAT THEY UNDERSTAND? IS THAT -
14 - DOES THAT WORK?

15 CHAIRMAN PENNINGTON: SURE.

16 MEMBER JONES: THEN THEY'VE GOT THE FULL INTENT
17 THAT -- YOU KNOW, THAT WE'RE NOT SAYING CASE-BY-CASE
18 CARTE BLANCHE. BRING IT TO US, LET US DETERMINE EARLY
19 ON, AND WE WILL DETERMINE --

20 MR CHANDLER: AND IT WOULD REQUIRE --

21 MEMBER JONES: -- THAT THE MOU ISN'T JUST FOR
22 THE REGISTRATION --

23 MR. CHANDLER: -- A NEW MOU OR AN ADDENDUM TO

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1 THE MOU --

2 MEMBER JONES: RIGHT.

3 MR. CHANDLER: -- TO BE STRUCTURED IN ORDER FOR

4 THAT ADDITIONAL LATITUDE --

5 MEMBER JONES: RIGHT. YEAH.

6 MR. CHANDLER: -- TO BE AFFORDED.

7 CHAIRMAN PENNINGTON: OKAY. ARE WE CLEAR ON

8 THAT? ARE WE GOING TO VOTE ON HERE?

9 MEMBER EATON: WELL, PERHAPS WE SHOULD ASK MR.

10 EDGAR IF PEACE IS TRULY AT HAND.

11 CHAIRMAN PENNINGTON: OKAY. ARE WE READY? IF

12 THERE'S NO FURTHER DISCUSSION, WILL THE SECRETARY CALL

13 THE ROLL?

14 THE SECRETARY: BOARD MEMBER EATON?

15 MEMBER EATON: AYE.

16 THE SECRETARY: FRAZEE?

17 MEMBER FRAZEE: AYE.

18 THE SECRETARY: JONES?

19 MEMBER JONES: AYE.

20 THE SECRETARY: CHAIRMAN PENNINGTON?

21 CHAIRMAN PENNINGTON: AYE.

22 MOTION CARRIES.

23

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1 AGENDA ITEM NO. 6: CONSIDERATION OF BOARD

2 COMMITTEE ASSIGNMENTS (ORAL PRESENTATION)

3 CHAIRMAN PENNINGTON: ITEM NO. 6 IS A MOOT
4 POINT, SINCE WE DEALT WITH IT DURING ITEM 7, I THINK
5 IT WAS.

6 MS. TOBIAS: FIVE.

7 CHAIRMAN PENNINGTON: THAT'S WHAT I MEAN.

8 OPEN DISCUSSION

9 CHAIRMAN PENNINGTON: SO, THAT BRINGS US TO OPEN
10 DISCUSSION. AND RANDY POLLACK WOULD LIKE TO ADDRESS
11 THE BOARD UNDER OPEN DISCUSSION.

12 MR. POLLACK: THANK YOU, MR. CHAIRMAN AND
13 MEMBERS OF THE BOARD. RANDY POLLACK ON BEHALF OF THE
14 SOAP AND DETERGENT ASSOCIATION. AND I JUST WANTED TO
15 COME AND GIVE YOU A QUICK UPDATE ON THE RPPC
16 CERTIFICATION PROCESS, AND HOW THAT PROCESS IS GOING
17 ALONG.

18 AND, AS YOU KNOW, THE INITIAL LISTS THAT,
19 WHEN IT WENT OUT, THERE WERE SOME PROBLEMS WITH SOME
20 OF THE ADDRESSES THAT THE BOARD HAD. AND I KNOW THE
21 STAFF HAS BEEN WORKING HARD TO CORRECT THOSE AND MAKE
22 SURE THAT THE CERTIFICATION FORMS WERE DIRECTED TO THE
23 CORRECT PARTIES.

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1 ONE OF THE ISSUES THAT WE'RE STILL HAVING
2 DIFFICULTY WITH IS WITH THE CONTAINER CERTIFICATION
3 FORM. AND THAT'S JUST THE ONE ISSUE THAT I WANT TO
4 RAISE HERE.

5 IN SOME CONVERSATIONS THAT WE HAD WITH
6 COMPANIES, THERE IS CERTAINLY DIFFICULTIES FROM
7 GETTING THAT INFORMATION FROM THE CONTAINER
8 MANUFACTURER'S FORM -- EXCUSE ME, FROM THE CONTAINER
9 MANUFACTURERS FOR SEVERAL REASONS.

10 ONE, SOMETIMES THEY'RE GOING THROUGH A
11 BROKER, AND SO THEY HAVE SENT THE INFORMATION OUT TO
12 THE BROKER AND THEY'RE STILL WAITING TO GET BACK THAT
13 INFORMATION. BECAUSE NOW THE BROKER HAS TO FORWARD
14 THAT TO THE CONTAINER MANUFACTURER.

15 ALSO, ONE OTHER COMPANY MENTIONED A PROBLEM
16 WHERE THEY HAVE ABOUT 300 PRODUCT LINES. AND THESE
17 ARE ALL DIFFERENT CONTAINERS. THEY'RE NOT ALL WITHIN
18 GROUPS, SO THEY'RE IN THE PROCESS OF MAILING 300
19 LETTERS OF THEIR CONTAINERS, AND THEN FORWARD ON TO
20 THE BOARD THE ADDITIONAL INFORMATION AS IT COMES IN.

21 THE OTHER CONCERN IS WHAT GOOD FAITH
22 EFFORTS DO WE NEED TO MAKE TO DEMONSTRATE THAT WE HAVE
23 SENT OUT THAT INFORMATION? FOR EXAMPLE, WE COULD SEND

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1 THREE LETTERS TO A CONTAINER MANUFACTURER, AND WE WERE
2 WONDERING IF THERE WAS SOME DIRECTION FROM THE BOARD
3 OR STAFF OF WHAT WE SHOULD DO IN CONTACTING THEM SO
4 THAT WE CAN DEMONSTRATE TO THE BOARD THAT THERE HAS
5 BEEN A GOOD FAITH EFFORT OF OBTAINING THAT
6 INFORMATION.

7 THIS IS NOT SAYING THAT WE AREN'T OBTAINING
8 IF, WE ARE OBTAINING A LOT OF INFORMATION. BUT I
9 THINK THAT YOU'RE GOING TO SEE, IN SOME INSTANCES,
10 THAT THE INFORMATION MIGHT NOT BE COMPLETE WITHIN THE
11 60 DAYS.

12 SO, THOSE ARE JUST THE CONCERNS THAT I
13 WANTED TO RAISE BEFORE THE BOARD AND TO THE STAFF, AND
14 HOPEFULLY CONTINUE THE DIALOGUE. AND I'D BE HAPPY TO
15 ANSWER ANY QUESTIONS.

16 CHAIRMAN PENNINGTON: I THINK THE EXECUTIVE
17 DIRECTOR HAS THE ABILITY TO EXTEND THE -- GIVE YOU AN
18 EXTENSION IN THE TIME PERIOD. SO, YOU MAY WANT TO
19 DISCUSS WITH MR. CHANDLER THE APPROPRIATENESS OF
20 GETTING AN EXTENSION TO THAT 60-DAY PERIOD.

21 AND I THINK THAT, IN TERMS OF THE GOOD
22 FAITH THING, IF YOU TALK TO THE STAFF YOU SHOULD BE
23 ABLE TO WORK THAT OUT. OBVIOUSLY, WE'RE ALL -- THE

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1 BOARD MEMBERS -- ARE WILLING TO HEAR FROM YOU IF
2 YOU'RE NOT SATISFIED WITH WHAT YOU WORK OUT WITH THE
3 STAFF.

4 MR. POLLACK: SO FAR THE STAFF HAS BEEN
5 WONDERFUL TO DEAL WITH. WE'VE BEEN HAVING SOME GOOD
6 CONVERSATIONS. THEY'VE ALSO PROVIDED SOME QUESTIONS
7 AND ANSWERS THAT THEY FORWARDED OUT TO SOME OF OUR
8 MEMBER COMPANIES, AND EVERYBODY WHO WAS ON THE LIST,
9 WHICH WAS VERY HELPFUL.

10 CHAIRMAN PENNINGTON: MEMBER JONES.

11 MEMBER JONES: MEMBERSHIP LOOKED AT -- SINCE
12 THEY'RE THE ONES THAT ARE ON THE HOOK FOR THIS, SINCE
13 THEY'RE THE ONES THAT FILL THE CONTAINER, HAVE THEY
14 LOOKED AT POSSIBLY MAKING THOSE CONTAINER
15 MANUFACTURERS UNDERSTAND JUST HOW EXPENSIVE THIS COULD
16 BE TO THEM?

17 MR. POLLACK: YES, AND --

18 MEMBER JONES: AND, THEREFORE, HOW EXPENSIVE IT
19 COULD BE TO THE POSSIBLE LIKELIHOOD OF THEIR CONTINUED
20 BUSINESS ARRANGEMENTS?

21 MR. POLLACK: OH, ABSOLUTELY. AND IF YOU'RE
22 DEALING WITH A FEW CONTAINER MANUFACTURERS IT'S A LOT
23 EASIER, BECAUSE THEN YOU CAN PINPOINT THE FOLKS IN

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1 THOSE COMPANIES THAT YOU HAVE A DAILY CONTACT WITH.

2 UNFORTUNATELY, MANY OF THESE COMPANIES ARE
3 DEALING WITH EITHER BROKERS OR MANY CONTAINER
4 MANUFACTURERS, AND TO TRY AND GET THE MESSAGE ACROSS
5 SOMETIMES PROVES DIFFICULT.

6 CHAIRMAN PENNINGTON: OKAY?

7 MR. POLLACK: ALL RIGHT. THANK YOU.

8 ADJOURNMENT

9 CHAIRMAN PENNINGTON: IF YOU'LL INDULGE ME FOR A
10 MINUTE I WANT TO TAKE A MOMENT TO, ON BEHALF OF THE
11 BOARD, TO ACKNOWLEDGE THE PASSING OF ONE OF THE
12 LEGENDS IN THE WASTE MANAGEMENT IN CALIFORNIA. FRANK
13 BOWERMAN PASSED AWAY EARLIER THIS MONTH. AND HE HAS
14 LEFT A LEGACY OF VISION, PERSONAL DEDICATION, AND
15 PROFOUND ACHIEVEMENT IN THE FIELD OF ENVIRONMENTAL
16 PROTECTION.

17 CALIFORNIA'S PREMIER STATUS IN WASTE
18 MANAGEMENT IS DUE IN LARGE PART TO THE INFLUENCE OF
19 LEADERSHIP PROVIDED BY A SELECT GROUP OF PIONEERS IN
20 THIS FIELD, AND FRANK WAS A CHARTER MEMBER OF THAT
21 GROUP.

22 FRANK WAS A MAN OF MANY ACCOMPLISHMENTS,
23 AND I'D LIKE TO RECOUNT JUST A FEW OF THEM. HE

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1 CREATED THE ENVIRONMENTAL ENGINEERING DEPARTMENT AT
2 THE UNIVERSITY OF SOUTHERN CALIFORNIA, THEREFORE
3 CONTRIBUTING TO THE PROGRESS WE'VE SEEN THROUGH THE
4 YEARS IN THE METHODS AND TECHNOLOGIES WE EMPLOY TO
5 MANAGE WASTE. FRANK ALSO SERVED WITH JOHN MOSCONE AS
6 ONE OF THE ORIGINAL MEMBERS OF THE FIRST WASTE
7 MANAGEMENT BOARD HERE IN SACRAMENTO BACK IN 1973. HE
8 FINISHED HIS CAREER AS DIRECTOR OF THE ORANGE COUNTY
9 INTEGRATED WASTE MANAGEMENT DEPARTMENT DURING WHICH
10 TIME THE DEPARTMENT EARNED A REPUTATION FOR EFFICIENCY
11 AND SENSIBLE MANAGEMENT OF WASTE IN A CHANGING WORLD.

12 THE PEOPLE OF ORANGE COUNTY PAID TRIBUTE TO
13 FRANK'S MANY CONTRIBUTIONS BY ADOPTING HIS NAMESAKE
14 FOR THE LANDFILL THAT FRANK HIMSELF SPONSORED YEARS
15 BEFORE. THE FRANK BOWERMAN LANDFILL IS A COMPELLING
16 DEMONSTRATION THAT TODAY'S MODERN LANDFILLS, COMPLETE
17 WITH STATE-OF-THE-ART SYSTEMS AND PROCESSES, IS A SEA
18 CHANGE FROM THE OLD DUMPS OF YESTERYEAR. AND THIS IS
19 ANOTHER IMPORTANT PART OF HIS LEGACY.

20 ON BEHALF OF THE BOARD I'D LIKE TO EXTEND
21 OUR CONDOLENCES TO FRANK'S FAMILY AND FRIENDS, AND
22 EXTEND OUR HEARTFELT THANKS FOR HIS MANY CONTRIBUTION
23 TO THE PEOPLE OF THIS GREAT STATE.

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1 NOW, WE WILL ADJOURN. WE WILL RECESS INTO
2 AN EXECUTIVE SESSION TO DISCUSS SOME --

3 MR. CHANDLER: MR. CHAIRMAN?

4 CHAIRMAN PENNINGTON: YEAH?

5 MR. CHANDLER: BEFORE WE DO ADJOURN I JUST WOULD
6 LIKE TO WISH DOROTHY RICE A HAPPY MATERNITY LEAVE, AS
7 SHE EMBARKS --

8 CHAIRMAN PENNINGTON: OH, THAT'S RIGHT, SHE'S
9 GOING ON --

10 MR. CHANDLER: -- ON HER MATERNITY LEAVE
11 STARTING THIS FRIDAY OF THIS WEEK. AND IT WILL BE NOT
12 LONG BEFORE SHE'S BACK, SHE'LL BE JOINING US ON
13 DECEMBER 1ST FROM MATERNITY LEAVE. BUT, I WANT TO
14 JUST WISH HER THE BEST OF HEALTH AND SUCCESS AS SHE
15 BRINGS HER NEW BABY GIRL INTO THE WORLD.

16 CHAIRMAN PENNINGTON: RIGHT.

17 MR. CHANDLER: SO, THANK YOU.

18 CHAIRMAN PENNINGTON: GOOD. THANK YOU.

19 (APPLAUSE.)

20 WE'LL ADJOURN TO AN EXECUTIVE SESSION FOR
21 LEGAL AND PERSONAL MATTERS, AND ADJOURN FOLLOWING THAT
22 SESSION.

23 (WHEREUPON, THE CIWMB REGULAR MONTHLY BUSINESS

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1 MEETING WAS CONCLUDED.)

2

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